

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 215
97TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 29, 2013, with recommendation that the Senate Committee Substitute do pass.

0284S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 43.518, 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447, 217.010, 217.345, 339.100, 375.1312, 544.455, 556.036, 556.037, 556.061, 557.011, 558.018, 558.026, 559.036, 559.100, 559.105, 559.115, 559.117, 566.020, 566.030, 566.040, 566.060, 566.070, 566.090, 566.093, 566.095, 566.100, 566.224, 566.226, 570.120, 573.037, 589.015, 590.700, 595.220, 600.011, 600.040, 600.042, 600.048, 632.480, 632.498, and 632.505, RSMo, and to enact in lieu thereof fifty new sections relating to criminal procedures, with penalty provisions, and an emergency clause for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 43.518, 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447, 217.010, 217.345, 339.100, 375.1312, 544.455, 556.036, 556.037, 556.061, 557.011, 558.018, 558.026, 559.036, 559.100, 559.105, 559.115, 559.117, 566.020, 566.030, 566.040, 566.060, 566.070, 566.090, 566.093, 566.095, 566.100, 566.224, 566.226, 570.120, 573.037, 589.015, 590.700, 595.220, 600.011, 600.040, 600.042, 600.048, 632.480, 632.498, and 632.505, RSMo, are repealed and fifty new sections enacted in lieu thereof, to be known as sections 43.518, 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447, 217.010, 217.345, 339.100, 375.1312, 544.455, 556.036, 556.037, 556.061, 557.011, 558.018, 558.026, 559.036, 559.100, 559.105, 559.115, 559.117, 566.020, 566.030, 566.031, 566.060, 566.061, 566.093, 566.095, 566.100, 566.101, 566.224, 566.226, 570.120, 573.037, 589.015, 590.700, 595.220, 600.011, 600.040, 600.042, 600.048, 600.062, 600.063, 600.064, 632.480, 632.498, and 632.505, to read as follows:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

43.518. 1. There is hereby established within the department of public
2 safety a "Criminal Records and Justice Information Advisory Committee" whose
3 purpose is to:

4 (1) Recommend general policies with respect to the philosophy, concept
5 and operational principles of the Missouri criminal history record information
6 system established by sections 43.500 to 43.530, in regard to the collection,
7 processing, storage, dissemination and use of criminal history record information
8 maintained by the central repository;

9 (2) Assess the current state of electronic justice information sharing; and

10 (3) Recommend policies and strategies, including standards and
11 technology, for promoting electronic justice information sharing, and coordinating
12 among the necessary agencies and institutions; and

13 (4) Provide guidance regarding the use of any state or federal funds
14 appropriated for promoting electronic justice information sharing.

15 2. The committee shall be composed of the following officials or their
16 designees: the director of the department of public safety; the director of the
17 department of corrections and human resources; the attorney general; the director
18 of the Missouri office of prosecution services; the president of the Missouri
19 prosecutors association; the president of the Missouri court clerks association; the
20 chief clerk of the Missouri state supreme court; the director of the state courts
21 administrator; the chairman of the state judicial record committee; the chairman
22 of the [circuit court budget] **court automation** committee; the presidents of the
23 Missouri peace officers association; the Missouri sheriffs association; the Missouri
24 police chiefs association or their successor agency; the superintendent of the
25 Missouri highway patrol; the chiefs of police of agencies in jurisdictions with over
26 two hundred thousand population; except that, in any county of the first class
27 having a charter form of government, the chief executive of the county may
28 designate another person in place of the police chief of any countywide police
29 force, to serve on the committee; and, at the discretion of the director of public
30 safety, as many as three other representatives of other criminal justice records
31 systems or law enforcement agencies may be appointed by the director of public
32 safety. The director of the department of public safety will serve as the
33 permanent chairman of this committee.

34 3. The committee shall meet as determined by the director but not less
35 than semiannually to perform its duties. A majority of the appointed members of
36 the committee shall constitute a quorum.

37 4. No member of the committee shall receive any state compensation for
38 the performance of duties associated with membership on this committee.

39 5. Official minutes of all committee meetings will be prepared by the
40 director, promptly distributed to all committee members, and filed by the director
41 for a period of at least five years.

160.261. 1. The local board of education of each school district shall
2 clearly establish a written policy of discipline, including the district's
3 determination on the use of corporal punishment and the procedures in which
4 punishment will be applied. A written copy of the district's discipline policy and
5 corporal punishment procedures, if applicable, shall be provided to the pupil and
6 parent or legal guardian of every pupil enrolled in the district at the beginning
7 of each school year and also made available in the office of the superintendent of
8 such district, during normal business hours, for public inspection. All employees
9 of the district shall annually receive instruction related to the specific contents
10 of the policy of discipline and any interpretations necessary to implement the
11 provisions of the policy in the course of their duties, including but not limited to
12 approved methods of dealing with acts of school violence, disciplining students
13 with disabilities and instruction in the necessity and requirements for
14 confidentiality.

15 2. The policy shall require school administrators to report acts of school
16 violence to all teachers at the attendance center and, in addition, to other school
17 district employees with a need to know. For the purposes of this chapter or
18 chapter 167, "need to know" is defined as school personnel who are directly
19 responsible for the student's education or who otherwise interact with the student
20 on a professional basis while acting within the scope of their assigned duties. As
21 used in this section, the phrase "act of school violence" or "violent behavior"
22 means the exertion of physical force by a student with the intent to do serious
23 physical injury as defined in subdivision (6) of section 565.002 to another person
24 while on school property, including a school bus in service on behalf of the
25 district, or while involved in school activities. The policy shall at a minimum
26 require school administrators to report, as soon as reasonably practical, to the
27 appropriate law enforcement agency any of the following crimes, or any act which
28 if committed by an adult would be one of the following crimes:

- 29 (1) First degree murder under section 565.020;
30 (2) Second degree murder under section 565.021;
31 (3) Kidnapping under section 565.110;

- 32 (4) First degree assault under section 565.050;
- 33 (5) **[Forcible] Rape in the first degree** under section 566.030;
- 34 (6) **[Forcible] Sodomy in the first degree** under section 566.060;
- 35 (7) Burglary in the first degree under section 569.160;
- 36 (8) Burglary in the second degree under section 569.170;
- 37 (9) Robbery in the first degree under section 569.020;
- 38 (10) Distribution of drugs under section 195.211;
- 39 (11) Distribution of drugs to a minor under section 195.212;
- 40 (12) Arson in the first degree under section 569.040;
- 41 (13) Voluntary manslaughter under section 565.023;
- 42 (14) Involuntary manslaughter under section 565.024;
- 43 (15) Second degree assault under section 565.060;
- 44 (16) **[Sexual assault] Rape in the second degree** under section
- 45 **[566.040] 566.031;**
- 46 (17) Felonious restraint under section 565.120;
- 47 (18) Property damage in the first degree under section 569.100;
- 48 (19) The possession of a weapon under chapter 571;
- 49 (20) Child molestation in the first degree pursuant to section 566.067;
- 50 (21) **[Deviate sexual assault] Sodomy in the second degree** pursuant
- 51 to section **[566.070] 566.061;**
- 52 (22) Sexual misconduct involving a child pursuant to section 566.083;
- 53 (23) Sexual abuse **in the first degree** pursuant to section 566.100;
- 54 (24) Harassment under section 565.090; or
- 55 (25) Stalking under section 565.225; committed on school property,
- 56 including but not limited to actions on any school bus in service on behalf of the
- 57 district or while involved in school activities. The policy shall require that any
- 58 portion of a student's individualized education program that is related to
- 59 demonstrated or potentially violent behavior shall be provided to any teacher and
- 60 other school district employees who are directly responsible for the student's
- 61 education or who otherwise interact with the student on an educational basis
- 62 while acting within the scope of their assigned duties. The policy shall also
- 63 contain the consequences of failure to obey standards of conduct set by the local
- 64 board of education, and the importance of the standards to the maintenance of an
- 65 atmosphere where orderly learning is possible and encouraged.
- 66 3. The policy shall provide that any student who is on suspension for any
- 67 of the offenses listed in subsection 2 of this section or any act of violence or

68 drug-related activity defined by school district policy as a serious violation of
69 school discipline pursuant to subsection 9 of this section shall have as a condition
70 of his or her suspension the requirement that such student is not allowed, while
71 on such suspension, to be within one thousand feet of any school property in the
72 school district where such student attended school or any activity of that district,
73 regardless of whether or not the activity takes place on district property unless:

74 (1) Such student is under the direct supervision of the student's parent,
75 legal guardian, or custodian and the superintendent or the superintendent's
76 designee has authorized the student to be on school property;

77 (2) Such student is under the direct supervision of another adult
78 designated by the student's parent, legal guardian, or custodian, in advance, in
79 writing, to the principal of the school which suspended the student and the
80 superintendent or the superintendent's designee has authorized the student to be
81 on school property;

82 (3) Such student is enrolled in and attending an alternative school that
83 is located within one thousand feet of a public school in the school district where
84 such student attended school; or

85 (4) Such student resides within one thousand feet of any public school in
86 the school district where such student attended school in which case such student
87 may be on the property of his or her residence without direct adult supervision.

88 4. Any student who violates the condition of suspension required pursuant
89 to subsection 3 of this section may be subject to expulsion or further suspension
90 pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making
91 this determination consideration shall be given to whether the student poses a
92 threat to the safety of any child or school employee and whether such student's
93 unsupervised presence within one thousand feet of the school is disruptive to the
94 educational process or undermines the effectiveness of the school's disciplinary
95 policy. Removal of any pupil who is a student with a disability is subject to state
96 and federal procedural rights. This section shall not limit a school district's
97 ability to:

98 (1) Prohibit all students who are suspended from being on school property
99 or attending an activity while on suspension;

100 (2) Discipline students for off-campus conduct that negatively affects the
101 educational environment to the extent allowed by law.

102 5. The policy shall provide for a suspension for a period of not less than
103 one year, or expulsion, for a student who is determined to have brought a weapon

104 to school, including but not limited to the school playground or the school parking
105 lot, brought a weapon on a school bus or brought a weapon to a school activity
106 whether on or off of the school property in violation of district policy, except that:

107 (1) The superintendent or, in a school district with no high school, the
108 principal of the school which such child attends may modify such suspension on
109 a case-by-case basis; and

110 (2) This section shall not prevent the school district from providing
111 educational services in an alternative setting to a student suspended under the
112 provisions of this section.

113 6. For the purpose of this section, the term "weapon" shall mean a firearm
114 as defined under 18 U.S.C. 921 and the following items, as defined in section
115 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a
116 firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon,
117 a rifle, a shotgun, a spring gun or a switchblade knife; except that this section
118 shall not be construed to prohibit a school board from adopting a policy to allow
119 a Civil War reenactor to carry a Civil War era weapon on school property for
120 educational purposes so long as the firearm is unloaded. The local board of
121 education shall define weapon in the discipline policy. Such definition shall
122 include the weapons defined in this subsection but may also include other
123 weapons.

124 7. All school district personnel responsible for the care and supervision
125 of students are authorized to hold every pupil strictly accountable for any
126 disorderly conduct in school or on any property of the school, on any school bus
127 going to or returning from school, during school-sponsored activities, or during
128 intermission or recess periods.

129 8. Teachers and other authorized district personnel in public schools
130 responsible for the care, supervision, and discipline of schoolchildren, including
131 volunteers selected with reasonable care by the school district, shall not be civilly
132 liable when acting in conformity with the established policies developed by each
133 board, including but not limited to policies of student discipline or when reporting
134 to his or her supervisor or other person as mandated by state law acts of school
135 violence or threatened acts of school violence, within the course and scope of the
136 duties of the teacher, authorized district personnel or volunteer, when such
137 individual is acting in conformity with the established policies developed by the
138 board. Nothing in this section shall be construed to create a new cause of action
139 against such school district, or to relieve the school district from liability for the

140 negligent acts of such persons.

141 9. Each school board shall define in its discipline policy acts of violence
142 and any other acts that constitute a serious violation of that policy. "Acts of
143 violence" as defined by school boards shall include but not be limited to exertion
144 of physical force by a student with the intent to do serious bodily harm to another
145 person while on school property, including a school bus in service on behalf of the
146 district, or while involved in school activities. School districts shall for each
147 student enrolled in the school district compile and maintain records of any
148 serious violation of the district's discipline policy. Such records shall be made
149 available to teachers and other school district employees with a need to know
150 while acting within the scope of their assigned duties, and shall be provided as
151 required in section 167.020 to any school district in which the student
152 subsequently attempts to enroll.

153 10. Spanking, when administered by certificated personnel and in the
154 presence of a witness who is an employee of the school district, or the use of
155 reasonable force to protect persons or property, when administered by personnel
156 of a school district in a reasonable manner in accordance with the local board of
157 education's written policy of discipline, is not abuse within the meaning of
158 chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the
159 children's division shall not have jurisdiction over or investigate any report of
160 alleged child abuse arising out of or related to the use of reasonable force to
161 protect persons or property when administered by personnel of a school district
162 or any spanking administered in a reasonable manner by any certificated school
163 personnel in the presence of a witness who is an employee of the school district
164 pursuant to a written policy of discipline established by the board of education
165 of the school district, as long as no allegation of sexual misconduct arises from the
166 spanking or use of force.

167 11. If a student reports alleged sexual misconduct on the part of a teacher
168 or other school employee to a person employed in a school facility who is required
169 to report such misconduct to the children's division under section 210.115, such
170 person and the superintendent of the school district shall forward the allegation
171 to the children's division within twenty-four hours of receiving the
172 information. Reports made to the children's division under this subsection shall
173 be investigated by the division in accordance with the provisions of sections
174 210.145 to 210.153 and shall not be investigated by the school district under
175 subsections 12 to 20 of this section for purposes of determining whether the

176 allegations should or should not be substantiated. The district may investigate
177 the allegations for the purpose of making any decision regarding the employment
178 of the accused employee.

179 12. Upon receipt of any reports of child abuse by the children's division
180 other than reports provided under subsection 11 of this section, pursuant to
181 sections 210.110 to 210.165 which allegedly involve personnel of a school district,
182 the children's division shall notify the superintendent of schools of the district or,
183 if the person named in the alleged incident is the superintendent of schools, the
184 president of the school board of the school district where the alleged incident
185 occurred.

186 13. If, after an initial investigation, the superintendent of schools or the
187 president of the school board finds that the report involves an alleged incident of
188 child abuse other than the administration of a spanking by certificated school
189 personnel or the use of reasonable force to protect persons or property when
190 administered by school personnel pursuant to a written policy of discipline or that
191 the report was made for the sole purpose of harassing a public school employee,
192 the superintendent of schools or the president of the school board shall
193 immediately refer the matter back to the children's division and take no further
194 action. In all matters referred back to the children's division, the division shall
195 treat the report in the same manner as other reports of alleged child abuse
196 received by the division.

197 14. If the report pertains to an alleged incident which arose out of or is
198 related to a spanking administered by certificated personnel or the use of
199 reasonable force to protect persons or property when administered by personnel
200 of a school district pursuant to a written policy of discipline or a report made for
201 the sole purpose of harassing a public school employee, a notification of the
202 reported child abuse shall be sent by the superintendent of schools or the
203 president of the school board to the law enforcement in the county in which the
204 alleged incident occurred.

205 15. The report shall be jointly investigated by the law enforcement officer
206 and the superintendent of schools or, if the subject of the report is the
207 superintendent of schools, by a law enforcement officer and the president of the
208 school board or such president's designee.

209 16. The investigation shall begin no later than forty-eight hours after
210 notification from the children's division is received, and shall consist of, but need
211 not be limited to, interviewing and recording statements of the child and the

212 child's parents or guardian within two working days after the start of the
213 investigation, of the school district personnel allegedly involved in the report, and
214 of any witnesses to the alleged incident.

215 17. The law enforcement officer and the investigating school district
216 personnel shall issue separate reports of their findings and recommendations
217 after the conclusion of the investigation to the school board of the school district
218 within seven days after receiving notice from the children's division.

219 18. The reports shall contain a statement of conclusion as to whether the
220 report of alleged child abuse is substantiated or is unsubstantiated.

221 19. The school board shall consider the separate reports referred to in
222 subsection 17 of this section and shall issue its findings and conclusions and the
223 action to be taken, if any, within seven days after receiving the last of the two
224 reports. The findings and conclusions shall be made in substantially the
225 following form:

226 (1) The report of the alleged child abuse is unsubstantiated. The law
227 enforcement officer and the investigating school board personnel agree that there
228 was not a preponderance of evidence to substantiate that abuse occurred;

229 (2) The report of the alleged child abuse is substantiated. The law
230 enforcement officer and the investigating school district personnel agree that the
231 preponderance of evidence is sufficient to support a finding that the alleged
232 incident of child abuse did occur;

233 (3) The issue involved in the alleged incident of child abuse is
234 unresolved. The law enforcement officer and the investigating school personnel
235 are unable to agree on their findings and conclusions on the alleged incident.

236 20. The findings and conclusions of the school board under subsection 19
237 of this section shall be sent to the children's division. If the findings and
238 conclusions of the school board are that the report of the alleged child abuse is
239 unsubstantiated, the investigation shall be terminated, the case closed, and no
240 record shall be entered in the children's division central registry. If the findings
241 and conclusions of the school board are that the report of the alleged child abuse
242 is substantiated, the children's division shall report the incident to the
243 prosecuting attorney of the appropriate county along with the findings and
244 conclusions of the school district and shall include the information in the
245 division's central registry. If the findings and conclusions of the school board are
246 that the issue involved in the alleged incident of child abuse is unresolved, the
247 children's division shall report the incident to the prosecuting attorney of the

248 appropriate county along with the findings and conclusions of the school board,
249 however, the incident and the names of the parties allegedly involved shall not
250 be entered into the central registry of the children's division unless and until the
251 alleged child abuse is substantiated by a court of competent jurisdiction.

252 21. Any superintendent of schools, president of a school board or such
253 person's designee or law enforcement officer who knowingly falsifies any report
254 of any matter pursuant to this section or who knowingly withholds any
255 information relative to any investigation or report pursuant to this section is
256 guilty of a class A misdemeanor.

257 22. In order to ensure the safety of all students, should a student be
258 expelled for bringing a weapon to school, violent behavior, or for an act of school
259 violence, that student shall not, for the purposes of the accreditation process of
260 the Missouri school improvement plan, be considered a dropout or be included in
261 the calculation of that district's educational persistence ratio.

167.115. 1. Notwithstanding any provision of chapter 211 or chapter 610
2 to the contrary, the juvenile officer, sheriff, chief of police or other appropriate
3 law enforcement authority shall, as soon as reasonably practical, notify the
4 superintendent, or the superintendent's designee, of the school district in which
5 the pupil is enrolled when a petition is filed pursuant to subsection 1 of section
6 211.031 alleging that the pupil has committed one of the following acts:

- 7 (1) First degree murder under section 565.020;
- 8 (2) Second degree murder under section 565.021;
- 9 (3) Kidnapping under section 565.110;
- 10 (4) First degree assault under section 565.050;
- 11 (5) **[Forcible] Rape in the first degree** under section 566.030;
- 12 (6) **[Forcible] Sodomy in the first degree** under section 566.060;
- 13 (7) Burglary in the first degree under section 569.160;
- 14 (8) Robbery in the first degree under section 569.020;
- 15 (9) Distribution of drugs under section 195.211;
- 16 (10) Distribution of drugs to a minor under section 195.212;
- 17 (11) Arson in the first degree under section 569.040;
- 18 (12) Voluntary manslaughter under section 565.023;
- 19 (13) Involuntary manslaughter under section 565.024;
- 20 (14) Second degree assault under section 565.060;
- 21 (15) **[Sexual assault] Rape in the second degree** under section
22 **[566.040] 566.031;**

- 23 (16) Felonious restraint under section 565.120;
- 24 (17) Property damage in the first degree under section 569.100;
- 25 (18) The possession of a weapon under chapter 571;
- 26 (19) Child molestation in the first degree pursuant to section 566.067;
- 27 (20) [Deviate sexual assault] **Sodomy in the second degree** pursuant
- 28 to section [566.070] **566.061**;
- 29 (21) Sexual misconduct involving a child pursuant to section 566.083; or
- 30 (22) Sexual abuse **in the first degree** pursuant to section 566.100.

31 2. The notification shall be made orally or in writing, in a timely manner,

32 no later than five days following the filing of the petition. If the report is made

33 orally, written notice shall follow in a timely manner. The notification shall

34 include a complete description of the conduct the pupil is alleged to have

35 committed and the dates the conduct occurred but shall not include the name of

36 any victim. Upon the disposition of any such case, the juvenile office or

37 prosecuting attorney or their designee shall send a second notification to the

38 superintendent providing the disposition of the case, including a brief summary

39 of the relevant finding of facts, no later than five days following the disposition

40 of the case.

41 3. The superintendent or the designee of the superintendent shall report

42 such information to teachers and other school district employees with a need to

43 know while acting within the scope of their assigned duties. Any information

44 received by school district officials pursuant to this section shall be received in

45 confidence and used for the limited purpose of assuring that good order and

46 discipline is maintained in the school. This information shall not be used as the

47 sole basis for not providing educational services to a public school pupil.

48 4. The superintendent shall notify the appropriate division of the juvenile

49 or family court upon any pupil's suspension for more than ten days or expulsion

50 of any pupil that the school district is aware is under the jurisdiction of the court.

51 5. The superintendent or the superintendent's designee may be called to

52 serve in a consultant capacity at any dispositional proceedings pursuant to

53 section 211.031 which may involve reference to a pupil's academic treatment plan.

54 6. Upon the transfer of any pupil described in this section to any other

55 school district in this state, the superintendent or the superintendent's designee

56 shall forward the written notification given to the superintendent pursuant to

57 subsection 2 of this section to the superintendent of the new school district in

58 which the pupil has enrolled. Such written notification shall be required again

59 in the event of any subsequent transfer by the pupil.

60 7. As used in this section, the terms "school" and "school district" shall
61 include any charter, private or parochial school or school district, and the term
62 "superintendent" shall include the principal or equivalent chief school officer in
63 the cases of charter, private or parochial schools.

64 8. The superintendent or the designee of the superintendent or other
65 school employee who, in good faith, reports information in accordance with the
66 terms of this section and section 160.261 shall not be civilly liable for providing
67 such information.

167.171. 1. The school board in any district, by general rule and for the
2 causes provided in section 167.161, may authorize the summary suspension of
3 pupils by principals of schools for a period not to exceed ten school days and by
4 the superintendent of schools for a period not to exceed one hundred and eighty
5 school days. In case of a suspension by the superintendent for more than ten
6 school days, the pupil, the pupil's parents or others having such pupil's custodial
7 care may appeal the decision of the superintendent to the board or to a committee
8 of board members appointed by the president of the board which shall have full
9 authority to act in lieu of the board. Any suspension by a principal shall be
10 immediately reported to the superintendent who may revoke the suspension at
11 any time. In event of an appeal to the board, the superintendent shall promptly
12 transmit to it a full report in writing of the facts relating to the suspension, the
13 action taken by the superintendent and the reasons therefor and the board, upon
14 request, shall grant a hearing to the appealing party to be conducted as provided
15 in section 167.161.

16 2. No pupil shall be suspended unless:

17 (1) The pupil shall be given oral or written notice of the charges against
18 such pupil;

19 (2) If the pupil denies the charges, such pupil shall be given an oral or
20 written explanation of the facts which form the basis of the proposed suspension;

21 (3) The pupil shall be given an opportunity to present such pupil's version
22 of the incident; and

23 (4) In the event of a suspension for more than ten school days, where the
24 pupil gives notice that such pupil wishes to appeal the suspension to the board,
25 the suspension shall be stayed until the board renders its decision, unless in the
26 judgment of the superintendent of schools, or of the district superintendent, the
27 pupil's presence poses a continuing danger to persons or property or an ongoing

28 threat of disrupting the academic process, in which case the pupil may be
29 immediately removed from school, and the notice and hearing shall follow as soon
30 as practicable.

31 3. No school board shall readmit or enroll a pupil properly suspended for
32 more than ten consecutive school days for an act of school violence as defined in
33 subsection 2 of section 160.261 regardless of whether or not such act was
34 committed at a public school or at a private school in this state, provided that
35 such act shall have resulted in the suspension or expulsion of such pupil in the
36 case of a private school, or otherwise permit such pupil to attend school without
37 first holding a conference to review the conduct that resulted in the expulsion or
38 suspension and any remedial actions needed to prevent any future occurrences
39 of such or related conduct. The conference shall include the appropriate school
40 officials including any teacher employed in that school or district directly involved
41 with the conduct that resulted in the suspension or expulsion, the pupil, the
42 parent or guardian of the pupil or any agency having legal jurisdiction, care,
43 custody or control of the pupil. The school board shall notify in writing the
44 parents or guardians and all other parties of the time, place, and agenda of any
45 such conference. Failure of any party to attend this conference shall not preclude
46 holding the conference. Notwithstanding any provision of this subsection to the
47 contrary, no pupil shall be readmitted or enrolled to a regular program of
48 instruction if:

49 (1) Such pupil has been convicted of; or

50 (2) An indictment or information has been filed alleging that the pupil has
51 committed one of the acts enumerated in subdivision (4) of this subsection to
52 which there has been no final judgment; or

53 (3) A petition has been filed pursuant to section 211.091 alleging that the
54 pupil has committed one of the acts enumerated in subdivision (4) of this
55 subsection to which there has been no final judgment; or

56 (4) The pupil has been adjudicated to have committed an act which if
57 committed by an adult would be one of the following:

58 (a) First degree murder under section 565.020;

59 (b) Second degree murder under section 565.021;

60 (c) First degree assault under section 565.050;

61 (d) **[Forcible] Rape in the first degree** under section 566.030;

62 (e) **[Forcible] Sodomy in the first degree** under section 566.060;

63 (f) Statutory rape under section 566.032;

64 (g) Statutory sodomy under section 566.062;
65 (h) Robbery in the first degree under section 569.020;
66 (i) Distribution of drugs to a minor under section 195.212;
67 (j) Arson in the first degree under section 569.040;
68 (k) Kidnapping, when classified as a class A felony under section
69 565.110. Nothing in this subsection shall prohibit the readmittance or enrollment
70 of any pupil if a petition has been dismissed, or when a pupil has been acquitted
71 or adjudicated not to have committed any of the above acts. This subsection shall
72 not apply to a student with a disability, as identified under state eligibility
73 criteria, who is convicted or adjudicated guilty as a result of an action related to
74 the student's disability. Nothing in this subsection shall be construed to prohibit
75 a school district which provides an alternative education program from enrolling
76 a pupil in an alternative education program if the district determines such
77 enrollment is appropriate.

78 4. If a pupil is attempting to enroll in a school district during a
79 suspension or expulsion from another in-state or out-of-state school district
80 including a private, charter or parochial school or school district, a conference
81 with the superintendent or the superintendent's designee may be held at the
82 request of the parent, court-appointed legal guardian, someone acting as a parent
83 as defined by rule in the case of a special education student, or the pupil to
84 consider if the conduct of the pupil would have resulted in a suspension or
85 expulsion in the district in which the pupil is enrolling. Upon a determination
86 by the superintendent or the superintendent's designee that such conduct would
87 have resulted in a suspension or expulsion in the district in which the pupil is
88 enrolling or attempting to enroll, the school district may make such suspension
89 or expulsion from another school or district effective in the district in which the
90 pupil is enrolling or attempting to enroll. Upon a determination by the
91 superintendent or the superintendent's designee that such conduct would not
92 have resulted in a suspension or expulsion in the district in which the student is
93 enrolling or attempting to enroll, the school district shall not make such
94 suspension or expulsion effective in its district in which the student is enrolling
95 or attempting to enroll.

168.071. 1. The state board of education may refuse to issue or renew a
2 certificate, or may, upon hearing, discipline the holder of a certificate of license
3 to teach for the following causes:

4 (1) A certificate holder or applicant for a certificate has pleaded to or been

5 found guilty of a felony or crime involving moral turpitude under the laws of this
6 state, any other state, of the United States, or any other country, whether or not
7 sentence is imposed;

8 (2) The certification was obtained through use of fraud, deception,
9 misrepresentation or bribery;

10 (3) There is evidence of incompetence, immorality, or neglect of duty by
11 the certificate holder;

12 (4) A certificate holder has been subject to disciplinary action relating to
13 certification issued by another state, territory, federal agency, or country upon
14 grounds for which discipline is authorized in this section; or

15 (5) If charges are filed by the local board of education, based upon the
16 annulling of a written contract with the local board of education, for reasons other
17 than election to the general assembly, without the consent of the majority of the
18 members of the board that is a party to the contract.

19 2. A public school district may file charges seeking the discipline of a
20 holder of a certificate of license to teach based upon any cause or combination of
21 causes outlined in subsection 1 of this section, including annulment of a written
22 contract. Charges shall be in writing, specify the basis for the charges, and be
23 signed by the chief administrative officer of the district, or by the president of the
24 board of education as authorized by a majority of the board of education. The
25 board of education may also petition the office of the attorney general to file
26 charges on behalf of the school district for any cause other than annulment of
27 contract, with acceptance of the petition at the discretion of the attorney general.

28 3. The department of elementary and secondary education may file
29 charges seeking the discipline of a holder of a certificate of license to teach based
30 upon any cause or combination of causes outlined in subsection 1 of this section,
31 other than annulment of contract. Charges shall be in writing, specify the basis
32 for the charges, and be signed by legal counsel representing the department of
33 elementary and secondary education.

34 4. If the underlying conduct or actions which are the basis for charges
35 filed pursuant to this section are also the subject of a pending criminal charge
36 against the person holding such certificate, the certificate holder may request, in
37 writing, a delayed hearing on advice of counsel under the fifth amendment of the
38 Constitution of the United States. Based upon such a request, no hearing shall
39 be held until after a trial has been completed on this criminal charge.

40 5. The certificate holder shall be given not less than thirty days' notice of

41 any hearing held pursuant to this section.

42 6. Other provisions of this section notwithstanding, the certificate of
43 license to teach shall be revoked or, in the case of an applicant, a certificate shall
44 not be issued, if the certificate holder or applicant has pleaded guilty to or been
45 found guilty of any of the following offenses established pursuant to Missouri law
46 or offenses of a similar nature established under the laws of any other state or
47 of the United States, or any other country, whether or not the sentence is
48 imposed:

49 (1) Any dangerous felony as defined in section 556.061, or murder in the
50 first degree under section 565.020;

51 (2) Any of the following sexual offenses: rape **in the first degree** under
52 section 566.030; statutory rape in the first degree under section 566.032;
53 statutory rape in the second degree under section 566.034; [sexual assault] **rape**
54 **in the second degree** under section [566.040] **566.031**; [forcible] sodomy **in**
55 **the first degree** under section 566.060; statutory sodomy in the first degree
56 under section 566.062; statutory sodomy in the second degree under section
57 566.064; child molestation in the first degree under section 566.067; child
58 molestation in the second degree under section 566.068; [deviate sexual assault]
59 **sodomy in the second degree** under section [566.070] **566.061**; sexual
60 misconduct involving a child under section 566.083; sexual contact with a student
61 while on public school property under section 566.086; [sexual misconduct in the
62 first degree under section 566.090;] sexual misconduct in the [second] **first**
63 degree under section 566.093; sexual misconduct in the [third] **second** degree
64 under section 566.095; sexual abuse **in the first degree** under section 566.100;
65 **sexual abuse in the second degree under section 566.101**; enticement of
66 a child under section 566.151; or attempting to entice a child;

67 (3) Any of the following offenses against the family and related offenses:
68 incest under section 568.020; abandonment of child in the first degree under
69 section 568.030; abandonment of child in the second degree under section 568.032;
70 endangering the welfare of a child in the first degree under section 568.045;
71 abuse of a child under section 568.060; child used in a sexual performance under
72 section 568.080; promoting sexual performance by a child under section 568.090;
73 or trafficking in children under section 568.175; and

74 (4) Any of the following offenses involving child pornography and related
75 offenses: promoting obscenity in the first degree under section 573.020;
76 promoting obscenity in the second degree when the penalty is enhanced to a class

77 D felony under section 573.030; promoting child pornography in the first degree
78 under section 573.025; promoting child pornography in the second degree under
79 section 573.035; possession of child pornography under section 573.037;
80 furnishing pornographic materials to minors under section 573.040; or coercing
81 acceptance of obscene material under section 573.065.

82 7. When a certificate holder pleads guilty or is found guilty of any offense
83 that would authorize the state board of education to seek discipline against that
84 holder's certificate of license to teach, the local board of education or the
85 department of elementary and secondary education shall immediately provide
86 written notice to the state board of education and the attorney general regarding
87 the plea of guilty or finding of guilty.

88 8. The certificate holder whose certificate was revoked pursuant to
89 subsection 6 of this section may appeal such revocation to the state board of
90 education. Notice of this appeal must be received by the commissioner of
91 education within ninety days of notice of revocation pursuant to this
92 subsection. Failure of the certificate holder to notify the commissioner of the
93 intent to appeal waives all rights to appeal the revocation. Upon notice of the
94 certificate holder's intent to appeal, an appeal hearing shall be held by a hearing
95 officer designated by the commissioner of education, with the final decision made
96 by the state board of education, based upon the record of that hearing. The
97 certificate holder shall be given not less than thirty days' notice of the hearing,
98 and an opportunity to be heard by the hearing officer, together with witnesses.

99 9. In the case of any certificate holder who has surrendered or failed to
100 renew his or her certificate of license to teach, the state board of education may
101 refuse to issue or renew, or may suspend or revoke, such certificate for any of the
102 reasons contained in this section.

103 10. In those cases where the charges filed pursuant to this section are
104 based upon an allegation of misconduct involving a minor child, the hearing
105 officer may accept into the record the sworn testimony of the minor child relating
106 to the misconduct received in any court or administrative hearing.

107 11. Hearings, appeals or other matters involving certificate holders,
108 licensees or applicants pursuant to this section may be informally resolved by
109 consent agreement or agreed settlement or voluntary surrender of the certificate
110 of license pursuant to the rules promulgated by the state board of education.

111 12. The final decision of the state board of education is subject to judicial
112 review pursuant to sections 536.100 to 536.140.

113 13. A certificate of license to teach to an individual who has been
114 convicted of a felony or crime involving moral turpitude, whether or not sentence
115 is imposed, shall be issued only upon motion of the state board of education
116 adopted by a unanimous affirmative vote of those members present and voting.

 188.023. Any licensed health care professional who delivers a baby or
2 performs an abortion, who has prima facie evidence that a patient has been the
3 victim of statutory rape in the first degree or statutory rape in the second degree,
4 or if the patient is under the age of eighteen, that he or she has been a victim of
5 sexual abuse, including [forcible rape, sexual assault] **rape in the first or**
6 **second degree**, or incest, shall be required to report such offenses in the same
7 manner as provided for by section 210.115.

 211.071. 1. If a petition alleges that a child between the ages of twelve
2 and seventeen has committed an offense which would be considered a felony if
3 committed by an adult, the court may, upon its own motion or upon motion by the
4 juvenile officer, the child or the child's custodian, order a hearing and may, in its
5 discretion, dismiss the petition and such child may be transferred to the court of
6 general jurisdiction and prosecuted under the general law; except that if a
7 petition alleges that any child has committed an offense which would be
8 considered first degree murder under section 565.020, second degree murder
9 under section 565.021, first degree assault under section 565.050, [forcible] rape
10 **in the first degree** under section 566.030, [forcible] sodomy **in the first**
11 **degree** under section 566.060, first degree robbery under section 569.020, or
12 distribution of drugs under section 195.211, or has committed two or more prior
13 unrelated offenses which would be felonies if committed by an adult, the court
14 shall order a hearing, and may in its discretion, dismiss the petition and transfer
15 the child to a court of general jurisdiction for prosecution under the general law.

16 2. Upon apprehension and arrest, jurisdiction over the criminal offense
17 allegedly committed by any person between seventeen and twenty-one years of
18 age over whom the juvenile court has retained continuing jurisdiction shall
19 automatically terminate and that offense shall be dealt with in the court of
20 general jurisdiction as provided in section 211.041.

21 3. Knowing and willful age misrepresentation by a juvenile subject shall
22 not affect any action or proceeding which occurs based upon the
23 misrepresentation. Any evidence obtained during the period of time in which a
24 child misrepresents his or her age may be used against the child and will be
25 subject only to rules of evidence applicable in adult proceedings.

26 4. Written notification of a transfer hearing shall be given to the juvenile
27 and his or her custodian in the same manner as provided in sections 211.101 and
28 211.111. Notice of the hearing may be waived by the custodian. Notice shall
29 contain a statement that the purpose of the hearing is to determine whether the
30 child is a proper subject to be dealt with under the provisions of this chapter, and
31 that if the court finds that the child is not a proper subject to be dealt with under
32 the provisions of this chapter, the petition will be dismissed to allow for
33 prosecution of the child under the general law.

34 5. The juvenile officer may consult with the office of prosecuting attorney
35 concerning any offense for which the child could be certified as an adult under
36 this section. The prosecuting or circuit attorney shall have access to police
37 reports, reports of the juvenile or deputy juvenile officer, statements of witnesses
38 and all other records or reports relating to the offense alleged to have been
39 committed by the child. The prosecuting or circuit attorney shall have access to
40 the disposition records of the child when the child has been adjudicated pursuant
41 to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney
42 shall not divulge any information regarding the child and the offense until the
43 juvenile court at a judicial hearing has determined that the child is not a proper
44 subject to be dealt with under the provisions of this chapter.

45 6. A written report shall be prepared in accordance with this chapter
46 developing fully all available information relevant to the criteria which shall be
47 considered by the court in determining whether the child is a proper subject to
48 be dealt with under the provisions of this chapter and whether there are
49 reasonable prospects of rehabilitation within the juvenile justice system. These
50 criteria shall include but not be limited to:

51 (1) The seriousness of the offense alleged and whether the protection of
52 the community requires transfer to the court of general jurisdiction;

53 (2) Whether the offense alleged involved viciousness, force and violence;

54 (3) Whether the offense alleged was against persons or property with
55 greater weight being given to the offense against persons, especially if personal
56 injury resulted;

57 (4) Whether the offense alleged is a part of a repetitive pattern of offenses
58 which indicates that the child may be beyond rehabilitation under the juvenile
59 code;

60 (5) The record and history of the child, including experience with the
61 juvenile justice system, other courts, supervision, commitments to juvenile

62 institutions and other placements;

63 (6) The sophistication and maturity of the child as determined by
64 consideration of his home and environmental situation, emotional condition and
65 pattern of living;

66 (7) The age of the child;

67 (8) The program and facilities available to the juvenile court in
68 considering disposition;

69 (9) Whether or not the child can benefit from the treatment or
70 rehabilitative programs available to the juvenile court; and

71 (10) Racial disparity in certification.

72 7. If the court dismisses the petition to permit the child to be prosecuted
73 under the general law, the court shall enter a dismissal order containing:

74 (1) Findings showing that the court had jurisdiction of the cause and of
75 the parties;

76 (2) Findings showing that the child was represented by counsel;

77 (3) Findings showing that the hearing was held in the presence of the
78 child and his counsel; and

79 (4) Findings showing the reasons underlying the court's decision to
80 transfer jurisdiction.

81 8. A copy of the petition and order of the dismissal shall be sent to the
82 prosecuting attorney.

83 9. When a petition has been dismissed thereby permitting a child to be
84 prosecuted under the general law, the jurisdiction of the juvenile court over that
85 child is forever terminated, except as provided in subsection 10 of this section, for
86 an act that would be a violation of a state law or municipal ordinance.

87 10. If a petition has been dismissed thereby permitting a child to be
88 prosecuted under the general law and the child is found not guilty by a court of
89 general jurisdiction, the juvenile court shall have jurisdiction over any later
90 offense committed by that child which would be considered a misdemeanor or
91 felony if committed by an adult, subject to the certification provisions of this
92 section.

93 11. If the court does not dismiss the petition to permit the child to be
94 prosecuted under the general law, it shall set a date for the hearing upon the
95 petition as provided in section 211.171.

211.447. 1. Any information that could justify the filing of a petition to
2 terminate parental rights may be referred to the juvenile officer by any

3 person. The juvenile officer shall make a preliminary inquiry and if it does not
4 appear to the juvenile officer that a petition should be filed, such officer shall so
5 notify the informant in writing within thirty days of the referral. Such
6 notification shall include the reasons that the petition will not be
7 filed. Thereupon, the informant may bring the matter directly to the attention
8 of the judge of the juvenile court by presenting the information in writing, and
9 if it appears to the judge that the information could justify the filing of a petition,
10 the judge may order the juvenile officer to take further action, including making
11 a further preliminary inquiry or filing a petition.

12 2. Except as provided for in subsection 4 of this section, a petition to
13 terminate the parental rights of the child's parent or parents shall be filed by the
14 juvenile officer or the division, or if such a petition has been filed by another
15 party, the juvenile officer or the division shall seek to be joined as a party to the
16 petition, when:

17 (1) Information available to the juvenile officer or the division establishes
18 that the child has been in foster care for at least fifteen of the most recent
19 twenty-two months; or

20 (2) A court of competent jurisdiction has determined the child to be an
21 abandoned infant. For purposes of this subdivision, an "infant" means any child
22 one year of age or under at the time of filing of the petition. The court may find
23 that an infant has been abandoned if:

24 (a) The parent has left the child under circumstances that the identity of
25 the child was unknown and could not be ascertained, despite diligent searching,
26 and the parent has not come forward to claim the child; or

27 (b) The parent has, without good cause, left the child without any
28 provision for parental support and without making arrangements to visit or
29 communicate with the child, although able to do so; or

30 (3) A court of competent jurisdiction has determined that the parent has:

31 (a) Committed murder of another child of the parent; or

32 (b) Committed voluntary manslaughter of another child of the parent; or

33 (c) Aided or abetted, attempted, conspired or solicited to commit such a
34 murder or voluntary manslaughter; or

35 (d) Committed a felony assault that resulted in serious bodily injury to
36 the child or to another child of the parent.

37 3. A termination of parental rights petition shall be filed by the juvenile
38 officer or the division, or if such a petition has been filed by another party, the

39 juvenile officer or the division shall seek to be joined as a party to the petition,
40 within sixty days of the judicial determinations required in subsection 2 of this
41 section, except as provided in subsection 4 of this section. Failure to comply with
42 this requirement shall not deprive the court of jurisdiction to adjudicate a
43 petition for termination of parental rights which is filed outside of sixty days.

44 4. If grounds exist for termination of parental rights pursuant to
45 subsection 2 of this section, the juvenile officer or the division may, but is not
46 required to, file a petition to terminate the parental rights of the child's parent
47 or parents if:

48 (1) The child is being cared for by a relative; or

49 (2) There exists a compelling reason for determining that filing such a
50 petition would not be in the best interest of the child, as documented in the
51 permanency plan which shall be made available for court review; or

52 (3) The family of the child has not been provided such services as provided
53 for in section 211.183.

54 5. The juvenile officer or the division may file a petition to terminate the
55 parental rights of the child's parent when it appears that one or more of the
56 following grounds for termination exist:

57 (1) The child has been abandoned. For purposes of this subdivision a
58 "child" means any child over one year of age at the time of filing of the
59 petition. The court shall find that the child has been abandoned if, for a period
60 of six months or longer:

61 (a) The parent has left the child under such circumstances that the
62 identity of the child was unknown and could not be ascertained, despite diligent
63 searching, and the parent has not come forward to claim the child; or

64 (b) The parent has, without good cause, left the child without any
65 provision for parental support and without making arrangements to visit or
66 communicate with the child, although able to do so;

67 (2) The child has been abused or neglected. In determining whether to
68 terminate parental rights pursuant to this subdivision, the court shall consider
69 and make findings on the following conditions or acts of the parent:

70 (a) A mental condition which is shown by competent evidence either to be
71 permanent or such that there is no reasonable likelihood that the condition can
72 be reversed and which renders the parent unable to knowingly provide the child
73 the necessary care, custody and control;

74 (b) Chemical dependency which prevents the parent from consistently

75 providing the necessary care, custody and control of the child and which cannot
76 be treated so as to enable the parent to consistently provide such care, custody
77 and control;

78 (c) A severe act or recurrent acts of physical, emotional or sexual abuse
79 toward the child or any child in the family by the parent, including an act of
80 incest, or by another under circumstances that indicate that the parent knew or
81 should have known that such acts were being committed toward the child or any
82 child in the family; or

83 (d) Repeated or continuous failure by the parent, although physically or
84 financially able, to provide the child with adequate food, clothing, shelter, or
85 education as defined by law, or other care and control necessary for the child's
86 physical, mental, or emotional health and development. Nothing in this
87 subdivision shall be construed to permit discrimination on the basis of disability
88 or disease;

89 (3) The child has been under the jurisdiction of the juvenile court for a
90 period of one year, and the court finds that the conditions which led to the
91 assumption of jurisdiction still persist, or conditions of a potentially harmful
92 nature continue to exist, that there is little likelihood that those conditions will
93 be remedied at an early date so that the child can be returned to the parent in
94 the near future, or the continuation of the parent-child relationship greatly
95 diminishes the child's prospects for early integration into a stable and permanent
96 home. In determining whether to terminate parental rights under this
97 subdivision, the court shall consider and make findings on the following:

98 (a) The terms of a social service plan entered into by the parent and the
99 division and the extent to which the parties have made progress in complying
100 with those terms;

101 (b) The success or failure of the efforts of the juvenile officer, the division
102 or other agency to aid the parent on a continuing basis in adjusting his
103 circumstances or conduct to provide a proper home for the child;

104 (c) A mental condition which is shown by competent evidence either to be
105 permanent or such that there is no reasonable likelihood that the condition can
106 be reversed and which renders the parent unable to knowingly provide the child
107 the necessary care, custody and control;

108 (d) Chemical dependency which prevents the parent from consistently
109 providing the necessary care, custody and control over the child and which cannot
110 be treated so as to enable the parent to consistently provide such care, custody

111 and control; or

112 (4) The parent has been found guilty or pled guilty to a felony violation
113 of chapter 566 when the child or any child in the family was a victim, or a
114 violation of section 568.020 when the child or any child in the family was a
115 victim. As used in this subdivision, a "child" means any person who was under
116 eighteen years of age at the time of the crime and who resided with such parent
117 or was related within the third degree of consanguinity or affinity to such parent;
118 or

119 (5) The child was conceived and born as a result of an act of [forcible]
120 rape **in the first degree**. When the biological father has pled guilty to, or is
121 convicted of, the [forcible] rape **in the first degree** of the birth mother, such a
122 plea or conviction shall be conclusive evidence supporting the termination of the
123 biological father's parental rights; or

124 (6) The parent is unfit to be a party to the parent and child relationship
125 because of a consistent pattern of committing a specific abuse, including but not
126 limited to abuses as defined in section 455.010, child abuse or drug abuse before
127 the child or of specific conditions directly relating to the parent and child
128 relationship either of which are determined by the court to be of a duration or
129 nature that renders the parent unable, for the reasonably foreseeable future, to
130 care appropriately for the ongoing physical, mental or emotional needs of the
131 child. It is presumed that a parent is unfit to be a party to the parent-child
132 relationship upon a showing that within a three-year period immediately prior
133 to the termination adjudication, the parent's parental rights to one or more other
134 children were involuntarily terminated pursuant to subsection 2 or 4 of this
135 section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar
136 laws of other states.

137 6. The juvenile court may terminate the rights of a parent to a child upon
138 a petition filed by the juvenile officer or the division, or in adoption cases, by a
139 prospective parent, if the court finds that the termination is in the best interest
140 of the child and when it appears by clear, cogent and convincing evidence that
141 grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

142 7. When considering whether to terminate the parent-child relationship
143 pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of
144 subsection 5 of this section, the court shall evaluate and make findings on the
145 following factors, when appropriate and applicable to the case:

146 (1) The emotional ties to the birth parent;

147 (2) The extent to which the parent has maintained regular visitation or
148 other contact with the child;

149 (3) The extent of payment by the parent for the cost of care and
150 maintenance of the child when financially able to do so including the time that
151 the child is in the custody of the division or other child-placing agency;

152 (4) Whether additional services would be likely to bring about lasting
153 parental adjustment enabling a return of the child to the parent within an
154 ascertainable period of time;

155 (5) The parent's disinterest in or lack of commitment to the child;

156 (6) The conviction of the parent of a felony offense that the court finds is
157 of such a nature that the child will be deprived of a stable home for a period of
158 years; provided, however, that incarceration in and of itself shall not be grounds
159 for termination of parental rights;

160 (7) Deliberate acts of the parent or acts of another of which the parent
161 knew or should have known that subjects the child to a substantial risk of
162 physical or mental harm.

163 8. The court may attach little or no weight to infrequent visitations,
164 communications, or contributions. It is irrelevant in a termination proceeding
165 that the maintenance of the parent-child relationship may serve as an
166 inducement for the parent's rehabilitation.

167 9. In actions for adoption pursuant to chapter 453, the court may hear and
168 determine the issues raised in a petition for adoption containing a prayer for
169 termination of parental rights filed with the same effect as a petition permitted
170 pursuant to subsection 2, 4, or 5 of this section.

171 10. The disability or disease of a parent shall not constitute a basis for a
172 determination that a child is a child in need of care, for the removal of custody
173 of a child from the parent, or for the termination of parental rights without a
174 specific showing that there is a causal relation between the disability or disease
175 and harm to the child.

217.010. As used in this chapter and chapter 558, unless the context
2 clearly indicates otherwise, the following terms shall mean:

3 (1) "Administrative segregation unit", a cell for the segregation of
4 offenders from the general population of a facility for relatively extensive periods
5 of time;

6 (2) "Board", the board of probation and parole;

7 (3) "Chief administrative officer", the institutional head of any

- 8 correctional facility or his designee;
- 9 (4) "Correctional center", any premises or institution where incarceration,
10 evaluation, care, treatment, or rehabilitation is provided to persons who are
11 under the department's authority;
- 12 (5) "Department", the department of corrections of the state of Missouri;
- 13 (6) "Director", the director of the department of corrections or his
14 designee;
- 15 (7) "Disciplinary segregation", a cell for the segregation of offenders from
16 the general population of a correctional center because the offender has been
17 found to have committed a violation of a division or facility rule and other
18 available means are inadequate to regulate the offender's behavior;
- 19 (8) "Division", a statutorily created agency within the department or an
20 agency created by the departmental organizational plan;
- 21 (9) "Division director", the director of a division of the department or his
22 designee;
- 23 (10) "Local volunteer community board", a board of qualified local
24 community volunteers selected by the court for the purpose of working in
25 partnership with the court and the department of corrections in a reparative
26 probation program;
- 27 (11) "Nonviolent offender", any offender who is convicted of a crime other
28 than murder in the first or second degree, involuntary manslaughter, kidnapping,
29 [forcible] rape **in the first degree**, [forcible] sodomy **in the first degree**,
30 robbery in the first degree or assault in the first degree;
- 31 (12) "Offender", a person under supervision or an inmate in the custody
32 of the department;
- 33 (13) "Probation", a procedure under which a defendant found guilty of a
34 crime upon verdict or plea is released by the court without imprisonment, subject
35 to conditions imposed by the court and subject to the supervision of the board;
- 36 (14) "Volunteer", any person who, of his own free will, performs any
37 assigned duties for the department or its divisions with no monetary or material
38 compensation.

217.345. 1. Correctional treatment programs for first offenders in the
2 department shall be established, subject to the control and supervision of the
3 director, and shall include such programs deemed necessary and sufficient for the
4 successful rehabilitation of offenders.

5 2. Correctional treatment programs for offenders who are younger than

6 [seventeen] **eighteen** years of age shall be established, subject to the control and
7 supervision of the director. By January 1, 1998, such programs shall include
8 physical separation of offenders who are younger than [seventeen] **eighteen**
9 years of age from offenders who are [seventeen] **eighteen** years of age or older.

10 3. The department shall have the authority to promulgate rules pursuant
11 to subsection 2 of section 217.378 to establish correctional treatment programs
12 for offenders under age [seventeen] **eighteen**. Such rules may include:

13 (1) Establishing separate housing units for such offenders; **and**

14 (2) Providing housing and program space in existing housing units for
15 such offenders that is not accessible to adult offenders[]; and

16 (3) Establishing a regimented training program for such offenders.

17 4. Any regimented training program established pursuant to subdivision
18 (3) of subsection 3 of this section shall include the following objectives:

19 (1) To provide a daily regimen for offenders including physical training,
20 self-discipline, educational programs and work programs;

21 (2) To provide staff who have received appropriate training in the
22 treatment of offenders under age seventeen and who are capable role models and
23 mentors;

24 (3) To provide offenders with instruction on how to solve problems and
25 strategies to change offenders' predisposition to commit crime;

26 (4) To provide offenders who have demonstrated positive behavioral
27 change with the opportunity to gradually reenter the community; and

28 (5) To provide for parole supervision consisting of highly structured
29 surveillance and monitoring, educational and treatment programs].

30 [5.] 4. The department shall have the authority to determine the number
31 of juvenile offenders participating in any treatment program depending on
32 available appropriations. The department may contract with any private or
33 public entity for the provision of services and facilities for offenders under age
34 [seventeen] **eighteen**. The department shall apply for and accept available
35 federal, state and local public funds including project demonstration funds as well
36 as private moneys to fund such services and facilities.

37 [6.] 5. The department shall develop and implement an [ongoing]
38 evaluation process for all juvenile offender programs.

39 [7. Any prosecuting attorney who prosecutes an offender under the age of
40 seventeen shall maintain records regarding the sentencing of that offender,
41 including any treatment programs to which that offender is assigned.

42 8. The department shall submit an evaluation report to the governor and
43 the general assembly concerning offenders under age seventeen and the programs
44 available to them on or before each January 30, beginning in 1999. This report
45 shall include, but is not limited to, the following items:

46 (1) The specific content and structure of programs for offenders, including
47 staffing ratios for each program, and a description of the daily routine of
48 offenders in those programs;

49 (2) The process used for placing offenders on parole, including whether
50 offenders may be returned to their original environment for the parole period, the
51 specific means of parole supervision and the specific educational and treatment
52 programs provided to offenders during their parole period;

53 (3) The procedure for transferring an offender to another facility for
54 vocational or training services or when an offender poses a danger to himself or
55 others, and identification of the facilities used for such purposes;

56 (4) The specific criteria and procedures for determining successful
57 completion of a treatment program, whether an offender cannot successfully
58 complete a treatment program, and whether an offender's parole shall be revoked;

59 (5) The recidivism rate for offenders successfully completing a treatment
60 program compared with the recidivism rate for offenders not successfully
61 completing a treatment program.]

339.100. 1. The commission may, upon its own motion, and shall upon
2 receipt of a written complaint filed by any person, investigate any real
3 estate-related activity of a licensee licensed under sections 339.010 to 339.180
4 and sections 339.710 to 339.860 or an individual or entity acting as or
5 representing themselves as a real estate licensee. In conducting such
6 investigation, if the questioned activity or written complaint involves an affiliated
7 licensee, the commission may forward a copy of the information received to the
8 affiliated licensee's designated broker. The commission shall have the power to
9 hold an investigatory hearing to determine whether there is a probability of a
10 violation of sections 339.010 to 339.180 and sections 339.710 to 339.860. The
11 commission shall have the power to issue a subpoena to compel the production of
12 records and papers bearing on the complaint. The commission shall have the
13 power to issue a subpoena and to compel any person in this state to come before
14 the commission to offer testimony or any material specified in the
15 subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section
16 shall be served in the same manner as subpoenas in a criminal case. The fees

17 and mileage of witnesses shall be the same as that allowed in the circuit court in
18 civil cases.

19 2. The commission may cause a complaint to be filed with the
20 administrative hearing commission as provided by the provisions of chapter 621
21 against any person or entity licensed under this chapter or any licensee who has
22 failed to renew or has surrendered his or her individual or entity license for any
23 one or any combination of the following acts:

24 (1) Failure to maintain and deposit in a special account, separate and
25 apart from his or her personal or other business accounts, all moneys belonging
26 to others entrusted to him or her while acting as a real estate broker or as the
27 temporary custodian of the funds of others, until the transaction involved is
28 consummated or terminated, unless all parties having an interest in the funds
29 have agreed otherwise in writing;

30 (2) Making substantial misrepresentations or false promises or
31 suppression, concealment or omission of material facts in the conduct of his or her
32 business or pursuing a flagrant and continued course of misrepresentation
33 through agents, salespersons, advertising or otherwise in any transaction;

34 (3) Failing within a reasonable time to account for or to remit any moneys,
35 valuable documents or other property, coming into his or her possession, which
36 belongs to others;

37 (4) Representing to any lender, guaranteeing agency, or any other
38 interested party, either verbally or through the preparation of false documents,
39 an amount in excess of the true and actual sale price of the real estate or terms
40 differing from those actually agreed upon;

41 (5) Failure to timely deliver a duplicate original of any and all
42 instruments to any party or parties executing the same where the instruments
43 have been prepared by the licensee or under his or her supervision or are within
44 his or her control, including, but not limited to, the instruments relating to the
45 employment of the licensee or to any matter pertaining to the consummation of
46 a lease, listing agreement or the purchase, sale, exchange or lease of property, or
47 any type of real estate transaction in which he or she may participate as a
48 licensee;

49 (6) Acting for more than one party in a transaction without the knowledge
50 of all parties for whom he or she acts, or accepting a commission or valuable
51 consideration for services from more than one party in a real estate transaction
52 without the knowledge of all parties to the transaction;

53 (7) Paying a commission or valuable consideration to any person for acts
54 or services performed in violation of sections 339.010 to 339.180 and sections
55 339.710 to 339.860;

56 (8) Guaranteeing or having authorized or permitted any licensee to
57 guarantee future profits which may result from the resale of real property;

58 (9) Having been finally adjudicated and been found guilty of the violation
59 of any state or federal statute which governs the sale or rental of real property
60 or the conduct of the real estate business as defined in subsection 1 of section
61 339.010;

62 (10) Obtaining a certificate or registration of authority, permit or license
63 for himself or herself or anyone else by false or fraudulent representation, fraud
64 or deceit;

65 (11) Representing a real estate broker other than the broker with whom
66 associated without the express written consent of the broker with whom
67 associated;

68 (12) Accepting a commission or valuable consideration for the performance
69 of any of the acts referred to in section 339.010 from any person except the broker
70 with whom associated at the time the commission or valuable consideration was
71 earned;

72 (13) Using prizes, money, gifts or other valuable consideration as
73 inducement to secure customers or clients to purchase, lease, sell or list property
74 when the awarding of such prizes, money, gifts or other valuable consideration
75 is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or
76 offering for sale real property by offering free lots, or conducting lotteries or
77 contests, or offering prizes for the purpose of influencing a purchaser or
78 prospective purchaser of real property;

79 (14) Placing a sign on or advertising any property offering it for sale or
80 rent without the written consent of the owner or his or her duly authorized agent;

81 (15) Violation of, or attempting to violate, directly or indirectly, or
82 assisting or enabling any person to violate, any provision of sections 339.010 to
83 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant
84 to sections 339.010 to 339.180 and sections 339.710 to 339.860;

85 (16) Committing any act which would otherwise be grounds for the
86 commission to refuse to issue a license under section 339.040;

87 (17) Failure to timely inform seller of all written offers unless otherwise
88 instructed in writing by the seller;

89 (18) Been finally adjudicated and found guilty, or entered a plea of guilty
90 or nolo contendere, in a criminal prosecution under the laws of this state or any
91 other state or of the United States, for any offense reasonably related to the
92 qualifications, functions or duties of any profession licensed or regulated under
93 this chapter, for any offense an essential element of which is fraud, dishonesty
94 or an act of violence, or for any offense involving moral turpitude, whether or not
95 sentence is imposed;

96 (19) Any other conduct which constitutes untrustworthy, improper or
97 fraudulent business dealings, demonstrates bad faith or incompetence,
98 misconduct, or gross negligence;

99 (20) Disciplinary action against the holder of a license or other right to
100 practice any profession regulated under sections 339.010 to 339.180 and sections
101 339.710 to 339.860 granted by another state, territory, federal agency, or country
102 upon grounds for which revocation, suspension, or probation is authorized in this
103 state;

104 (21) Been found by a court of competent jurisdiction of having used any
105 controlled substance, as defined in chapter 195, to the extent that such use
106 impairs a person's ability to perform the work of any profession licensed or
107 regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

108 (22) Been finally adjudged insane or incompetent by a court of competent
109 jurisdiction;

110 (23) Assisting or enabling any person to practice or offer to practice any
111 profession licensed or regulated under sections 339.010 to 339.180 and sections
112 339.710 to 339.860 who is not registered and currently eligible to practice under
113 sections 339.010 to 339.180 and sections 339.710 to 339.860;

114 (24) Use of any advertisement or solicitation which is knowingly false,
115 misleading or deceptive to the general public or persons to whom the
116 advertisement or solicitation is primarily directed;

117 (25) Making any material misstatement, misrepresentation, or omission
118 with regard to any application for licensure or license renewal. As used in this
119 section, "material" means important information about which the commission
120 should be informed and which may influence a licensing decision;

121 (26) Engaging in, committing, or assisting any person in engaging in or
122 committing mortgage fraud, as defined in section 443.930.

123 3. After the filing of such complaint, the proceedings will be conducted in
124 accordance with the provisions of law relating to the administrative hearing

125 commission. A finding of the administrative hearing commissioner that the
126 licensee has performed or attempted to perform one or more of the foregoing acts
127 shall be grounds for the suspension or revocation of his license by the
128 commission, or the placing of the licensee on probation on such terms and
129 conditions as the real estate commission shall deem appropriate, or the
130 imposition of a civil penalty by the commission not to exceed two thousand five
131 hundred dollars for each offense. Each day of a continued violation shall
132 constitute a separate offense.

133 4. The commission may prepare a digest of the decisions of the
134 administrative hearing commission which concern complaints against licensed
135 brokers or salespersons and cause such digests to be mailed to all licensees
136 periodically. Such digests may also contain reports as to new or changed rules
137 adopted by the commission and other information of significance to licensees.

138 5. Notwithstanding other provisions of this section, a broker or
139 salesperson's license shall be revoked, or in the case of an applicant, shall not be
140 issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo
141 contendere to, or been found guilty of any of the following offenses or offenses of
142 a similar nature established under the laws of this, any other state, the United
143 States, or any other country, notwithstanding whether sentence is imposed:

144 (1) Any dangerous felony as defined under section 556.061 or murder in
145 the first degree;

146 (2) Any of the following sexual offenses: **rape in the first degree**,
147 statutory rape in the first degree, statutory rape in the second degree, [sexual
148 assault, forcible] **rape in the second degree**, **sodomy in the first degree**,
149 statutory sodomy in the first degree, statutory sodomy in the second degree, child
150 molestation in the first degree, child molestation in the second degree, [deviate
151 sexual assault] **sodomy in the second degree**, sexual misconduct involving a
152 child, [sexual misconduct in the first degree,] **sexual abuse in the first or**
153 **second degree**, enticement of a child, or attempting to entice a child;

154 (3) Any of the following offenses against the family and related offenses:
155 incest, abandonment of a child in the first degree, abandonment of a child in the
156 second degree, endangering the welfare of a child in the first degree, abuse of a
157 child, using a child in a sexual performance, promoting sexual performance by a
158 child, or trafficking in children;

159 (4) Any of the following offenses involving child pornography and related
160 offenses: promoting obscenity in the first degree, promoting obscenity in the

161 second degree when the penalty is enhanced to a class D felony, promoting child
162 pornography in the first degree, promoting child pornography in the second
163 degree, possession of child pornography in the first degree, possession of child
164 pornography in the second degree, furnishing child pornography to a minor,
165 furnishing pornographic materials to minors, or coercing acceptance of obscene
166 material; and

167 (5) Mortgage fraud as defined in section 570.310.

168 6. A person whose license was revoked under subsection 5 of this section
169 may appeal such revocation to the administrative hearing commission. Notice of
170 such appeal must be received by the administrative hearing commission within
171 ninety days of mailing, by certified mail, the notice of revocation. Failure of a
172 person whose license was revoked to notify the administrative hearing
173 commission of his or her intent to appeal waives all rights to appeal the
174 revocation. Upon notice of such person's intent to appeal, a hearing shall be held
175 before the administrative hearing commission.

375.1312. 1. As used in this section, the following terms mean:

2 (1) "Domestic violence"[, the occurrence of stalking or one or more of the
3 following acts between family or household members:

4 (a) Attempting to cause or intentionally or knowingly causing bodily
5 injury or physical harm;

6 (b) Knowingly engaging in a course of conduct or repeatedly committing
7 acts toward another person under circumstances that place the person in
8 reasonable fear of bodily injury or physical harm; or

9 (c) Knowingly committing forcible rape, sexual assault or forcible sodomy,
10 as defined in chapter 566;

11 (2) "Family or household member", spouses, former spouses, adults related
12 by blood or marriage, adults who are presently residing together or have resided
13 together in the past and adults who have a child in common regardless of whether
14 they have been married or have resided together at any time] **and "family" or**
15 **"household member", as such terms are defined in section 455.010;**

16 [(3)] **(2)** "Innocent coinsured", an insured who did not cooperate in or
17 contribute to the creation of a property loss and the loss arose out of a pattern of
18 domestic violence;

19 [(4)] **(3)** "Sole", a single act or a pattern of domestic violence which may
20 include multiple acts[;

21 (5) "Stalking", when an adult purposely and repeatedly harasses or follows

22 with the intent of harassing another adult. As used in this subdivision,
23 "harasses" means to engage in a course of conduct directed at a specific adult that
24 serves no legitimate purpose, that would cause a reasonable adult to suffer
25 substantial emotional distress. As used in this subdivision, "course of conduct"
26 means a pattern of conduct composed of a series of acts over a period of time,
27 however short, evidencing a continuity of purpose. Constitutionally protected
28 activity is not included within the meaning of "course of conduct"].

29 2. No insurer shall do any of the following on the sole basis of the status
30 of an insured or prospective insured as a victim of domestic violence:

31 (1) Deny, cancel or refuse to issue or renew an insurance policy;

32 (2) Require a greater premium, deductible or any other payment;

33 (3) Exclude or limit coverage for losses or deny a claim;

34 (4) Designate domestic violence as a preexisting condition for which
35 coverage will be denied or reduced;

36 (5) Terminate group coverage solely because of claims relating to the fact
37 that any individual in the group is or has been a victim of domestic violence; or

38 (6) Fix any lower rate or discriminate in the fees or commissions of an
39 agent for writing or renewing a policy insuring an individual solely because an
40 individual is or has been a victim of domestic violence.

41 3. The fact that an insured or prospective insured has been a victim of
42 domestic violence shall not be considered a permitted underwriting or rating
43 criterion.

44 4. Nothing in this section shall prohibit an insurer from taking an action
45 described in subsection 2 of this section if the action is otherwise permissible by
46 law and is taken in the same manner and to the same extent with respect to all
47 insureds and prospective insureds without regard to whether the insured or
48 prospective insured is a victim of domestic violence.

49 5. If an innocent coinsured files a police report and completes a sworn
50 affidavit for the insurer that indicates both the cause of the loss and a pledge to
51 cooperate in any criminal prosecution of the person committing the act causing
52 the loss, then no insurer shall deny payment to an innocent coinsured on a
53 property loss claim due to any policy provision that excludes coverage for
54 intentional acts. Payment to the innocent coinsured may be limited to such
55 innocent coinsured's ownership interest in the property as reduced by any
56 payment to a mortgagor or other secured interest; however, insurers shall not be
57 required to make any subsequent payment to any other insured for the part of

58 any loss for which the innocent coinsured has received payment. An insurer
59 making payment to an insured shall have all rights of subrogation to recover
60 against the perpetrator of the loss.

61 6. A violation of this section shall be subject to the provisions of sections
62 375.930 to 375.948, relating to unfair trade practices.

544.455. 1. Any person charged with a bailable offense, at his or her
2 appearance before an associate circuit judge or judge may be ordered released
3 pending trial, appeal, or other stage of the proceedings against him on his
4 personal recognizance, unless the associate circuit judge or judge determines, in
5 the exercise of his discretion, that such a release will not reasonably assure the
6 appearance of the person as required. When such a determination is made, the
7 associate circuit judge or judge may either in lieu of or in addition to the above
8 methods of release, impose any or any combination of the following conditions of
9 release which will reasonably assure the appearance of the person for trial:

10 (1) Place the person in the custody of a designated person or organization
11 agreeing to supervise him;

12 (2) Place restriction on the travel, association, or place of abode of the
13 person during the period of release;

14 (3) Require the execution of a bail bond with sufficient solvent sureties,
15 or the deposit of cash in lieu thereof;

16 (4) Require the person to report regularly to some officer of the court, or
17 peace officer, in such manner as the associate circuit judge or judge directs;

18 (5) Require the execution of a bond in a given sum and the deposit in the
19 registry of the court of ten percent, or such lesser percent as the judge directs, of
20 the sum in cash or negotiable bonds of the United States or of the state of
21 Missouri or any political subdivision thereof;

22 (6) Place the person on house arrest with electronic monitoring[.]; except
23 that all costs associated with the electronic monitoring shall be charged to the
24 person on house arrest. If the judge finds the person unable to afford the costs
25 associated with electronic monitoring, [then] the judge [shall not] **may** order that
26 the person be placed on house arrest with electronic monitoring **if the county**
27 **commission agrees to pay from the general revenue of the county the**
28 **costs of such monitoring. If the person on house arrest is unable to**
29 **afford the costs associated with electronic monitoring and the county**
30 **commission does not agree to pay the costs of such electronic**
31 **monitoring, the judge shall not order that the person be placed on**

32 **house arrest with electronic monitoring;**

33 (7) Impose any other condition deemed reasonably necessary to assure
34 appearance as required, including a condition requiring that the person return
35 to custody after specified hours.

36 2. In determining which conditions of release will reasonably assure
37 appearance, the associate circuit judge or judge shall, on the basis of available
38 information, take into account the nature and circumstances of the offense
39 charged, the weight of the evidence against the accused, the accused's family ties,
40 employment, financial resources, character and mental condition, the length of
41 his residence in the community, his record of convictions, and his record of
42 appearance at court proceedings or flight to avoid prosecution or failure to appear
43 at court proceedings.

44 3. An associate circuit judge or judge authorizing the release of a person
45 under this section shall issue an appropriate order containing a statement of the
46 conditions imposed, if any, shall inform such person of the penalties applicable
47 to violations of the conditions of his release and shall advise him that a warrant
48 for his arrest will be issued immediately upon any such violation.

49 4. A person for whom conditions of release are imposed and who after
50 twenty-four hours from the time of the release hearing continues to be detained
51 as a result of his inability to meet the conditions of release, shall, upon
52 application, be entitled to have the condition reviewed by the associate circuit
53 judge or judge who imposed them. The motion shall be determined promptly.

54 5. An associate circuit judge or judge ordering the release of a person on
55 any condition specified in this section may at any time amend his order to impose
56 additional or different conditions of release; except that, if the imposition of such
57 additional or different conditions results in the detention of the person as a result
58 of his inability to meet such conditions or in the release of the person on a
59 condition requiring him to return to custody after specified hours, the provisions
60 of subsection 4 **of this section** shall apply.

61 6. Information stated in, or offered in connection with, any order entered
62 pursuant to this section need not conform to the rules pertaining to the
63 admissibility of evidence in a court of law.

64 7. Nothing contained in this section shall be construed to prevent the
65 disposition of any case or class of cases by forfeiture of collateral security where
66 such disposition is authorized by the court.

67 8. Persons charged with violations of municipal ordinances may be

68 released by a municipal judge or other judge who hears and determines municipal
69 ordinance violation cases of the municipality involved under the same conditions
70 and in the same manner as provided in this section for release by an associate
71 circuit judge.

72 9. A circuit court may adopt a local rule authorizing the pretrial release
73 on electronic monitoring pursuant to subdivision (6) of subsection 1 of this section
74 in lieu of incarceration of individuals charged with offenses specifically identified
75 therein.

556.036. 1. A prosecution for murder, [forcible] rape **in the first**
2 **degree**, attempted [forcible] rape **in the first degree**, [forcible] sodomy **in the**
3 **first degree**, attempted [forcible] sodomy **in the first degree**, or any class A
4 felony may be commenced at any time.

5 2. Except as otherwise provided in this section, prosecutions for other
6 offenses must be commenced within the following periods of limitation:

7 (1) For any felony, three years, except as provided in subdivision (4) of
8 this subsection;

9 (2) For any misdemeanor, one year;

10 (3) For any infraction, six months;

11 (4) For any violation of section 569.040, when classified as a class B
12 felony, or any violation of section 569.050 or 569.055, five years.

13 3. If the period prescribed in subsection 2 of this section has expired, a
14 prosecution may nevertheless be commenced for:

15 (1) Any offense a material element of which is either fraud or a breach of
16 fiduciary obligation within one year after discovery of the offense by an aggrieved
17 party or by a person who has a legal duty to represent an aggrieved party and
18 who is himself or herself not a party to the offense, but in no case shall this
19 provision extend the period of limitation by more than three years. As used in
20 this subdivision, the term "person who has a legal duty to represent an aggrieved
21 party" shall mean the attorney general or the prosecuting or circuit attorney
22 having jurisdiction pursuant to section 407.553, for purposes of offenses
23 committed pursuant to sections 407.511 to 407.556; and

24 (2) Any offense based upon misconduct in office by a public officer or
25 employee at any time when the defendant is in public office or employment or
26 within two years thereafter, but in no case shall this provision extend the period
27 of limitation by more than three years; and

28 (3) Any offense based upon an intentional and willful fraudulent claim of

29 child support arrearage to a public servant in the performance of his or her duties
30 within one year after discovery of the offense, but in no case shall this provision
31 extend the period of limitation by more than three years.

32 4. An offense is committed either when every element occurs, or, if a
33 legislative purpose to prohibit a continuing course of conduct plainly appears, at
34 the time when the course of conduct or the defendant's complicity therein is
35 terminated. Time starts to run on the day after the offense is committed.

36 5. A prosecution is commenced for a misdemeanor or infraction when the
37 information is filed and for a felony when the complaint or indictment is filed.

38 6. The period of limitation does not run:

39 (1) During any time when the accused is absent from the state, but in no
40 case shall this provision extend the period of limitation otherwise applicable by
41 more than three years; or

42 (2) During any time when the accused is concealing himself from justice
43 either within or without this state; or

44 (3) During any time when a prosecution against the accused for the
45 offense is pending in this state; or

46 (4) During any time when the accused is found to lack mental fitness to
47 proceed pursuant to section 552.020.

556.037. Notwithstanding the provisions of section 556.036, prosecutions
2 for unlawful sexual offenses involving a person eighteen years of age or under
3 must be commenced within thirty years after the victim reaches the age of
4 eighteen unless the prosecutions are for [forcible] rape **in the first degree**,
5 attempted [forcible] rape **in the first degree**, [forcible] sodomy **in the first**
6 **degree**, kidnapping, or attempted [forcible] sodomy **in the first degree** in
7 which case such prosecutions may be commenced at any time.

556.061. In this code, unless the context requires a different definition,
2 the following shall apply:

3 (1) "Affirmative defense" has the meaning specified in section 556.056;

4 (2) "Burden of injecting the issue" has the meaning specified in section
5 556.051;

6 (3) "Commercial film and photographic print processor", any person who
7 develops exposed photographic film into negatives, slides or prints, or who makes
8 prints from negatives or slides, for compensation. The term commercial film and
9 photographic print processor shall include all employees of such persons but shall
10 not include a person who develops film or makes prints for a public agency;

11 (4) "Confinement":

12 (a) A person is in confinement when such person is held in a place of
13 confinement pursuant to arrest or order of a court, and remains in confinement
14 until:

15 a. A court orders the person's release; or

16 b. The person is released on bail, bond, or recognizance, personal or
17 otherwise; or

18 c. A public servant having the legal power and duty to confine the person
19 authorizes his release without guard and without condition that he return to
20 confinement;

21 (b) A person is not in confinement if:

22 a. The person is on probation or parole, temporary or otherwise; or

23 b. The person is under sentence to serve a term of confinement which is
24 not continuous, or is serving a sentence under a work-release program, and in
25 either such case is not being held in a place of confinement or is not being held
26 under guard by a person having the legal power and duty to transport the person
27 to or from a place of confinement;

28 (5) "Consent": consent or lack of consent may be expressed or
29 implied. Assent does not constitute consent if:

30 (a) It is given by a person who lacks the mental capacity to authorize the
31 conduct charged to constitute the offense and such mental incapacity is manifest
32 or known to the actor; or

33 (b) It is given by a person who by reason of youth, mental disease or
34 defect, [or] intoxication, **a drug-induced state, or any other reason** is
35 manifestly unable or known by the actor to be unable to make a reasonable
36 judgment as to the nature or harmfulness of the conduct charged to constitute the
37 offense; or

38 (c) It is induced by force, duress or deception;

39 (6) "Criminal negligence" has the meaning specified in section 562.016;

40 (7) "Custody", a person is in custody when the person has been arrested
41 but has not been delivered to a place of confinement;

42 (8) "Dangerous felony" means the felonies of arson in the first degree,
43 assault in the first degree, attempted [forcible] rape **in the first degree** if
44 physical injury results, attempted [forcible] sodomy **in the first degree** if
45 physical injury results, [forcible] rape **in the first degree**, [forcible] sodomy **in**
46 **the first degree**, kidnapping, murder in the second degree, assault of a law

47 enforcement officer in the first degree, domestic assault in the first degree, elder
48 abuse in the first degree, robbery in the first degree, statutory rape in the first
49 degree when the victim is a child less than twelve years of age at the time of the
50 commission of the act giving rise to the offense, statutory sodomy in the first
51 degree when the victim is a child less than twelve years of age at the time of the
52 commission of the act giving rise to the offense, and, abuse of a child pursuant to
53 subdivision (2) of subsection 3 of section 568.060, child kidnapping, and parental
54 kidnapping committed by detaining or concealing the whereabouts of the child for
55 not less than one hundred twenty days under section 565.153;

56 (9) "Dangerous instrument" means any instrument, article or substance,
57 which, under the circumstances in which it is used, is readily capable of causing
58 death or other serious physical injury;

59 (10) "Deadly weapon" means any firearm, loaded or unloaded, or any
60 weapon from which a shot, readily capable of producing death or serious physical
61 injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or
62 metal knuckles;

63 (11) "Felony" has the meaning specified in section 556.016;

64 (12) "Forcible compulsion" means either:

65 (a) Physical force that overcomes reasonable resistance; or

66 (b) A threat, express or implied, that places a person in reasonable fear
67 of death, serious physical injury or kidnapping of such person or another person;

68 (13) "Incapacitated" means that physical or mental condition, temporary
69 or permanent, in which a person is unconscious, unable to appraise the nature of
70 such person's conduct, or unable to communicate unwillingness to an act[. A
71 person is not incapacitated with respect to an act committed upon such person if
72 he or she became unconscious, unable to appraise the nature of such person's
73 conduct or unable to communicate unwillingness to an act, after consenting to the
74 act];

75 (14) "Infraction" has the meaning specified in section 556.021;

76 (15) "Inhabitable structure" has the meaning specified in section 569.010;

77 (16) "Knowingly" has the meaning specified in section 562.016;

78 (17) "Law enforcement officer" means any public servant having both the
79 power and duty to make arrests for violations of the laws of this state, and
80 federal law enforcement officers authorized to carry firearms and to make arrests
81 for violations of the laws of the United States;

82 (18) "Misdemeanor" has the meaning specified in section 556.016;

- 83 (19) "Offense" means any felony, misdemeanor or infraction;
- 84 (20) "Physical injury" means physical pain, illness, or any impairment of
85 physical condition;
- 86 (21) "Place of confinement" means any building or facility and the grounds
87 thereof wherein a court is legally authorized to order that a person charged with
88 or convicted of a crime be held;
- 89 (22) "Possess" or "possessed" means having actual or constructive
90 possession of an object with knowledge of its presence. A person has actual
91 possession if such person has the object on his or her person or within easy reach
92 and convenient control. A person has constructive possession if such person has
93 the power and the intention at a given time to exercise dominion or control over
94 the object either directly or through another person or persons. Possession may
95 also be sole or joint. If one person alone has possession of an object, possession
96 is sole. If two or more persons share possession of an object, possession is joint;
- 97 (23) "Public servant" means any person employed in any way by a
98 government of this state who is compensated by the government by reason of such
99 person's employment, any person appointed to a position with any government of
100 this state, or any person elected to a position with any government of this state.
101 It includes, but is not limited to, legislators, jurors, members of the judiciary and
102 law enforcement officers. It does not include witnesses;
- 103 (24) "Purposely" has the meaning specified in section 562.016;
- 104 (25) "Recklessly" has the meaning specified in section 562.016;
- 105 (26) "Ritual" or "ceremony" means an act or series of acts performed by
106 two or more persons as part of an established or prescribed pattern of activity;
- 107 (27) "Serious emotional injury", an injury that creates a substantial risk
108 of temporary or permanent medical or psychological damage, manifested by
109 impairment of a behavioral, cognitive or physical condition. Serious emotional
110 injury shall be established by testimony of qualified experts upon the reasonable
111 expectation of probable harm to a reasonable degree of medical or psychological
112 certainty;
- 113 (28) "Serious physical injury" means physical injury that creates a
114 substantial risk of death or that causes serious disfigurement or protracted loss
115 or impairment of the function of any part of the body;
- 116 (29) "Sexual conduct" means acts of human masturbation; deviate sexual
117 intercourse; sexual intercourse; or physical contact with a person's clothed or
118 unclothed genitals, pubic area, buttocks, or the breast of a female in an act of

119 apparent sexual stimulation or gratification;

120 (30) "Sexual contact" means any touching of the genitals or anus of any
121 person, or the breast of any female person, or any such touching through the
122 clothing, for the purpose of arousing or gratifying sexual desire of any person;

123 (31) "Sexual performance", any performance, or part thereof, which
124 includes sexual conduct by a child who is less than seventeen years of age;

125 (32) "Voluntary act" has the meaning specified in section 562.011.

557.011. 1. Every person found guilty of an offense shall be dealt with by
2 the court in accordance with the provisions of this chapter, except that for
3 offenses defined outside this code and not repealed, the term of imprisonment or
4 the fine that may be imposed is that provided in the statute defining the offense;
5 however, the conditional release term of any sentence of a term of years shall be
6 determined as provided in subsection 4 of section 558.011.

7 2. Whenever any person has been found guilty of a felony or a
8 misdemeanor the court shall make one or more of the following dispositions of the
9 offender in any appropriate combination. The court may:

10 (1) Sentence the person to a term of imprisonment as authorized by
11 chapter 558;

12 (2) Sentence the person to pay a fine as authorized by chapter 560;

13 (3) Suspend the imposition of sentence, with or without placing the person
14 on probation;

15 (4) Pronounce sentence and suspend its execution, placing the person on
16 probation;

17 (5) Impose a period of detention as a condition of probation, as authorized
18 by section 559.026.

19 3. Whenever any person has been found guilty of an infraction, the court
20 shall make one or more of the following dispositions of the offender in any
21 appropriate combination. The court may:

22 (1) Sentence the person to pay a fine as authorized by chapter 560;

23 (2) Suspend the imposition of sentence, with or without placing the person
24 on probation;

25 (3) Pronounce sentence and suspend its execution, placing the person on
26 probation.

27 4. Whenever any organization has been found guilty of an offense, the
28 court shall make one or more of the following dispositions of the organization in
29 any appropriate combination. The court may:

30 (1) Sentence the organization to pay a fine as authorized by chapter 560;

31 (2) Suspend the imposition of sentence, with or without placing the
32 organization on probation;

33 (3) Pronounce sentence and suspend its execution, placing the
34 organization on probation;

35 (4) Impose any special sentence or sanction authorized by law.

36 5. This chapter shall not be construed to deprive the court of any
37 authority conferred by law to decree a forfeiture of property, suspend or cancel
38 a license, remove a person from office, or impose any other civil penalty. An
39 appropriate order exercising such authority may be included as part of any
40 sentence.

41 6. In the event a sentence of confinement is ordered executed, a court may
42 order that an individual serve all or any portion of such sentence on electronic
43 monitoring[.]; except that all costs associated with the electronic monitoring shall
44 be charged to the person on house arrest. If the judge finds the person unable to
45 afford the costs associated with electronic monitoring, [then] the judge [shall not]
46 **may** order that the person be placed on house arrest with electronic monitoring
47 **if the county commission agrees to pay the costs of such monitoring.**
48 **If the person on house arrest is unable to afford the costs associated**
49 **with electronic monitoring and the county commission does not agree**
50 **to pay from the general revenue of the county the costs of such**
51 **electronic monitoring, the judge shall not order that the person be**
52 **placed on house arrest with electronic monitoring.**

558.018. 1. The court shall sentence a person [who has pleaded guilty to
2 or] **to an extended term of imprisonment if it finds the defendant is a**
3 **persistent sexual offender and** has been found guilty of [the felony of forcible
4 rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the
5 first degree or an attempt to commit any of the crimes designated in this
6 subsection to an extended term of imprisonment if it finds the defendant is a
7 persistent sexual offender] **attempting to commit or committing the**
8 **following offenses:**

9 (1) **Statutory rape in the first degree or statutory sodomy in the**
10 **first degree;**

11 (2) **Rape in the first degree or sodomy in the first degree**
12 **attempted or committed on or after August 28, 2013;**

13 (3) **Forcible rape committed or attempted any time during the**

14 **period of August 13, 1980 to August 27, 2013;**

15 **(4) Forcible sodomy committed or attempted any time during the**
16 **period of January 1, 1995 to August 27, 2013;**

17 **(5) Rape committed or attempted before August 13, 1980;**

18 **(6) Sodomy committed or attempted before January 1, 1995.**

19 2. A "persistent sexual offender" is one who has previously [pleaded guilty
20 to or has been found guilty of the felony of forcible rape, rape, statutory rape in
21 the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree or
22 an attempt to commit any of the crimes designated in this subsection] **been**
23 **found guilty of attempting to commit or committing any of the offenses**
24 **listed in subsection 1 of this section.**

25 3. The term of imprisonment for one found to be a persistent sexual
26 offender shall be imprisonment for life without eligibility for probation or
27 parole. Subsection 4 of section 558.019 shall not apply to any person imprisoned
28 under this subsection, and "imprisonment for life" shall mean imprisonment for
29 the duration of the person's natural life.

30 4. The court shall sentence a person [who has pleaded guilty to or has]
31 **to an extended term of imprisonment as provided for in this section if**
32 **it finds the defendant is a predatory sexual offender and has** been found
33 guilty of [the felony of forcible rape, statutory rape in the first degree, forcible
34 sodomy, statutory sodomy in the first degree, or an attempt to commit any of the
35 preceding crimes or] **committing or attempting to commit any of the**
36 **offenses listed in subsection 1 of this section or committing** child
37 molestation in the first degree when classified as a class B felony or sexual abuse
38 when classified as a class B felony to an extended term of imprisonment as
39 provided for in this section if it finds the defendant is a predatory sexual
40 offender.

41 5. For purposes of this section, a "predatory sexual offender" is a person
42 who:

43 (1) Has previously [pleaded guilty to or has] been found guilty of [the
44 felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy,
45 sodomy, statutory sodomy in the first degree, or an attempt to commit any of the
46 preceding crimes or] **committing or attempting to commit any of the**
47 **offenses listed in subsection 1 of this section, or committing** child
48 molestation in the first degree when classified as a class B felony or sexual abuse
49 when classified as a class B felony; or

50 (2) Has previously committed an act which would constitute an offense
51 listed in subsection 4 of this section, whether or not the act resulted in a
52 conviction; or

53 (3) Has committed an act or acts against more than one victim which
54 would constitute an offense or offenses listed in subsection 4 of this section,
55 whether or not the defendant was charged with an additional offense or offenses
56 as a result of such act or acts.

57 6. A person found to be a predatory sexual offender shall be imprisoned
58 for life with eligibility for parole, however subsection 4 of section 558.019 shall
59 not apply to persons found to be predatory sexual offenders for the purposes of
60 determining the minimum prison term or the length of sentence as defined or
61 used in such subsection. Notwithstanding any other provision of law, in no event
62 shall a person found to be a predatory sexual offender receive a final discharge
63 from parole.

64 7. Notwithstanding any other provision of law, the court shall set the
65 minimum time required to be served before a predatory sexual offender is eligible
66 for parole, conditional release or other early release by the department of
67 corrections. The minimum time to be served by a person found to be a predatory
68 sexual offender who:

69 (1) Has previously [pleaded guilty to or has] been found guilty of [the
70 felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy,
71 sodomy, statutory sodomy in the first degree, or an attempt to commit any of the
72 preceding crimes and pleads guilty to or is found guilty of the felony of forcible
73 rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the
74 first degree or an attempt to commit any of the preceding crimes] **committing**
75 **or attempting to commit any of the offenses listed in subsection 1 of**
76 **this section and is found guilty of committing or attempting to commit**
77 **any of the offenses listed in subsection 1 of this section** shall be any
78 number of years but not less than thirty years;

79 (2) Has previously pleaded guilty to or has been found guilty of child
80 molestation in the first degree when classified as a class B felony or sexual abuse
81 when classified as a class B felony and [pleads guilty to or] is found guilty of
82 attempting to commit or committing [forcible rape, statutory rape in the first
83 degree, forcible sodomy or statutory sodomy in the first degree] **any of the**
84 **offenses listed in subsection 1 of this section** shall be any number of years
85 but not less than fifteen years;

86 (3) Has previously [pleaded guilty to or has] been found guilty of [the
87 felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy,
88 sodomy, statutory sodomy in the first degree, or an attempt to commit any of the
89 preceding crimes and pleads guilty to or is found guilty of] **committing or**
90 **attempting to commit any of the offenses listed in subsection 1 of this**
91 **section, or committing** child molestation in the first degree when classified as
92 a class B felony or sexual abuse when classified as a class B felony shall be any
93 number of years but not less than fifteen years;

94 (4) Has previously pleaded guilty to or has been found guilty of child
95 molestation in the first degree when classified as a class B felony or sexual abuse
96 when classified as a class B felony, and pleads guilty to or is found guilty of child
97 molestation in the first degree when classified as a class B felony or sexual abuse
98 when classified as a class B felony shall be any number of years but not less than
99 fifteen years;

100 (5) Is found to be a predatory sexual offender pursuant to subdivision (2)
101 or (3) of subsection 5 of this section shall be any number of years within the
102 range to which the person could have been sentenced pursuant to the applicable
103 law if the person was not found to be a predatory sexual offender.

104 8. Notwithstanding any provision of law to the contrary, the department
105 of corrections, or any division thereof, may not furlough an individual found to be
106 and sentenced as a persistent sexual offender or a predatory sexual offender.

558.026. 1. Multiple sentences of imprisonment shall run concurrently
2 unless the court specifies that they shall run consecutively; except [that,] in the
3 case of multiple sentences of imprisonment imposed for [the felony of rape,
4 forcible rape, sodomy, forcible sodomy or] **any offense committed during or**
5 **at the same time as, or multiple offenses of, the following felonies:**

6 (1) **Rape in the first degree;**

7 (2) **Statutory rape in the first degree;**

8 (3) **Sodomy in the first degree;**

9 (4) **Statutory sodomy in the first degree; or**

10 (5) An attempt to commit any of the [aforesaid and for other offenses
11 committed during or at the same time as that rape, forcible rape, sodomy, forcible
12 sodomy or an attempt to commit any of the aforesaid, the sentences of
13 imprisonment imposed for the other offenses may run concurrently, but] **felonies**
14 **listed in this subsection.**

15 **In such case,** the sentence of imprisonment imposed for [the felony of rape,

16 forcible rape, sodomy, forcible sodomy] **any offense of rape in the first**
17 **degree, statutory rape in the first degree, sodomy in the first degree,**
18 **statutory sodomy in the first degree,** or an attempt to commit any of the
19 aforesaid shall run consecutively to the other sentences. **The sentences**
20 **imposed for any other offense may run concurrently.**

21 2. If a person who is on probation, parole or conditional release is
22 sentenced to a term of imprisonment for an offense committed after the granting
23 of probation or parole or after the start of his conditional release term, the court
24 shall direct the manner in which the sentence or sentences imposed by the court
25 shall run with respect to any resulting probation, parole or conditional release
26 revocation term or terms. If the subsequent sentence to imprisonment is in
27 another jurisdiction, the court shall specify how any resulting probation, parole
28 or conditional release revocation term or terms shall run with respect to the
29 foreign sentence of imprisonment.

30 3. A court may cause any sentence it imposes to run concurrently with a
31 sentence an individual is serving or is to serve in another state or in a federal
32 correctional center. If the Missouri sentence is served in another state or in a
33 federal correctional center, subsection 4 of section 558.011 and section 217.690
34 shall apply as if the individual were serving his sentence within the department
35 of corrections of the state of Missouri, except that a personal hearing before the
36 board of probation and parole shall not be required for parole consideration.

559.036. 1. A term of probation commences on the day it is
2 imposed. Multiple terms of Missouri probation, whether imposed at the same
3 time or at different times, shall run concurrently. Terms of probation shall also
4 run concurrently with any federal or other state jail, prison, probation or parole
5 term for another offense to which the defendant is or becomes subject during the
6 period, unless otherwise specified by the Missouri court.

7 2. The court may terminate a period of probation and discharge the
8 defendant at any time before completion of the specific term fixed under section
9 559.016 if warranted by the conduct of the defendant and the ends of justice. The
10 court may extend the term of the probation, but no more than one extension of
11 any probation may be ordered except that the court may extend the term of
12 probation by one additional year by order of the court if the defendant admits he
13 or she has violated the conditions of probation or is found by the court to have
14 violated the conditions of his or her probation. Total time on any probation term,
15 including any extension shall not exceed the maximum term established in

16 section 559.016. Procedures for termination, discharge and extension may be
17 established by rule of court.

18 3. If the defendant violates a condition of probation at any time prior to
19 the expiration or termination of the probation term, the court may continue him
20 on the existing conditions, with or without modifying or enlarging the conditions
21 or extending the term.

22 4. (1) **Unless the defendant consents to the revocation of**
23 **probation**, if a continuation, modification, enlargement or extension is not
24 appropriate under this section, the court shall order placement of the offender in
25 one of the department of corrections' one hundred twenty-day programs so long
26 as:

27 (a) The underlying offense for the probation is a class C or D felony or an
28 offense listed in chapter 195; except that, the court may, upon its own motion or
29 a motion of the prosecuting or circuit attorney, make a finding that an offender
30 is not eligible if the underlying offense is involuntary manslaughter in the first
31 degree, involuntary manslaughter in the second degree, aggravated stalking,
32 assault in the second degree, sexual assault, domestic assault in the second
33 degree, assault of a law enforcement officer in the second degree, statutory rape
34 in the second degree, statutory sodomy in the second degree, deviate sexual
35 assault, sexual misconduct involving a child, incest, endangering the welfare of
36 a child in the first degree under subdivision (1) or (2) of subsection 1 of section
37 568.045, abuse of a child, invasion of privacy or any case in which the defendant
38 is found guilty of a felony offense under chapter 571;

39 (b) The probation violation is not the result of the defendant being an
40 absconder or being found guilty of, pleading guilty to, or being arrested on
41 suspicion of any felony, misdemeanor, or infraction. For purposes of this
42 subsection, "absconder" shall mean an offender under supervision who has left
43 such offender's place of residency without the permission of the offender's
44 supervising officer for the purpose of avoiding supervision;

45 (c) The defendant has not violated any conditions of probation involving
46 the possession or use of weapons, or a stay-away condition prohibiting the
47 defendant from contacting a certain individual; and

48 (d) The defendant has not already been placed in one of the programs by
49 the court for the same underlying offense or during the same probation term.

50 (2) Upon receiving the order, the department of corrections shall conduct
51 an assessment of the offender and place such offender in the appropriate one

52 hundred twenty-day program under subsection 3 of section 559.115.

53 (3) Notwithstanding any of the provisions of subsection 3 of section
54 559.115 to the contrary, once the defendant has successfully completed the
55 program under this subsection, the court shall release the defendant to continue
56 to serve the term of probation, which shall not be modified, enlarged, or extended
57 based on the same incident of violation. Time served in the program shall be
58 credited as time served on any sentence imposed for the underlying offense.

59 5. **If the defendant consents to the revocation of probation or if**
60 the defendant is not eligible under subsection 4 of this section for placement in
61 a program and a continuation, modification, enlargement, or extension of the term
62 under this section is not appropriate, the court may revoke probation and order
63 that any sentence previously imposed be executed. If imposition of sentence was
64 suspended, the court may revoke probation and impose any sentence available
65 under section 557.011. The court may mitigate any sentence of imprisonment by
66 reducing the prison or jail term by all or part of the time the defendant was on
67 probation. The court may, upon revocation of probation, place an offender on a
68 second term of probation. Such probation shall be for a term of probation as
69 provided by section 559.016, notwithstanding any amount of time served by the
70 offender on the first term of probation.

71 6. Probation shall not be revoked without giving the probationer notice
72 and an opportunity to be heard on the issues of whether [he] **such probationer**
73 violated a condition of probation and, if [he did] **a condition was violated,**
74 whether revocation is warranted under all the circumstances. **Not less than**
75 **five business days prior to the date set for a hearing on the violation,**
76 **except for a good cause shown, the judge shall inform the probationer**
77 **that he or she may have the right to request the appointment of counsel**
78 **if the probationer is unable to retain counsel. If the probationer**
79 **requests counsel, the judge shall determine whether counsel is**
80 **necessary to protect the probationer's due process rights. If the judge**
81 **determines that counsel is not necessary, the judge shall state the**
82 **grounds for the decision in the record.**

83 7. The prosecuting or circuit attorney may file a motion to revoke
84 probation or at any time during the term of probation, the court may issue a
85 notice to the probationer to appear to answer a charge of a violation, and the
86 court may issue a warrant of arrest for the violation. Such notice shall be
87 personally served upon the probationer. The warrant shall authorize the return

88 of the probationer to the custody of the court or to any suitable detention facility
89 designated by the court. Upon the filing of the prosecutor's or circuit attorney's
90 motion or on the court's own motion, the court may immediately enter an order
91 suspending the period of probation and may order a warrant for the defendant's
92 arrest. The probation shall remain suspended until the court rules on the
93 prosecutor's or circuit attorney's motion, or until the court otherwise orders the
94 probation reinstated.

95 8. The power of the court to revoke probation shall extend for the duration
96 of the term of probation designated by the court and for any further period which
97 is reasonably necessary for the adjudication of matters arising before its
98 expiration, provided that some affirmative manifestation of an intent to conduct
99 a revocation hearing occurs prior to the expiration of the period and that every
100 reasonable effort is made to notify the probationer and to conduct the hearing
101 prior to the expiration of the period.

559.100. 1. The circuit courts of this state shall have power, herein
2 provided, to place on probation or to parole persons convicted of any offense over
3 which they have jurisdiction, except as otherwise provided in sections 195.275 to
4 195.296, section 558.018, section 559.115, section 565.020, sections 566.030,
5 566.060, 566.067, 566.151, and 566.213, section 571.015, and subsection 3 of
6 section 589.425.

7 2. The circuit court shall have the power to revoke the probation or parole
8 previously granted under section 559.036 and commit the person to the
9 department of corrections. The circuit court shall determine any conditions of
10 probation or parole for the defendant that it deems necessary to ensure the
11 successful completion of the probation or parole term, including the extension of
12 any term of supervision for any person while on probation or parole. The circuit
13 court may require that the defendant pay restitution for his crime. The probation
14 or parole may be revoked under section 559.036 for failure to pay restitution or
15 for failure to conform his behavior to the conditions imposed by the circuit
16 court. The circuit court may, in its discretion, credit any period of probation or
17 parole as time served on a sentence.

18 **3. Restitution, whether court ordered as provided in subsection**
19 **2 of this section or agreed to by the parties, or as enforced under**
20 **section 558.019, shall be paid through the office of the prosecuting**
21 **attorney or circuit attorney. Nothing in this section shall prohibit the**
22 **prosecuting attorney or circuit attorney from contracting with or**

23 utilizing another entity for the collection of restitution and costs under
24 this section. When ordered by the court, interest shall be allowed
25 under subsection 1 of section 408.040. In addition to all other costs and
26 fees allowed by law, each prosecuting attorney or circuit attorney who
27 takes any action to collect restitution shall collect from the person
28 paying restitution an administrative handling cost. The cost shall be
29 twenty-five dollars for restitution of less than one hundred dollars and
30 fifty dollars for restitution of at least one hundred dollars but less than
31 two hundred fifty dollars. For restitution of two hundred fifty dollars
32 or more an additional fee of ten percent of the total restitution shall be
33 assessed, with a maximum fee for administrative handling costs not to
34 exceed seventy-five dollars total. Notwithstanding the provisions of
35 sections 50.525 to 50.745, the costs provided for in this subsection shall
36 be deposited by the county treasurer into a separate interest-bearing
37 fund to be expended by the prosecuting attorney or circuit
38 attorney. This fund shall be known as the "Administrative Handling
39 Cost Fund", and it shall be the fund for deposits under this section and
40 under section 570.120. The funds shall be expended, upon warrants
41 issued by the prosecuting attorney or circuit attorney directing the
42 treasurer to issue checks thereon, only for purposes related to that
43 authorized by subsection 4 of this section.

44 4. The moneys deposited in the fund may be used by the
45 prosecuting attorney or circuit attorney for office supplies, postage,
46 books, training, office equipment, capital outlay, expenses of trial and
47 witness preparation, additional employees for the staff of the
48 prosecuting or circuit attorney, employees' salaries, and for other
49 lawful expenses incurred by the prosecuting or circuit attorney in the
50 operation of that office.

51 5. This fund may be audited by the state auditor's office or the
52 appropriate auditing agency.

53 6. If the moneys collected and deposited into this fund are not
54 totally expended annually, then the unexpended balance shall remain
55 in the fund and the balance shall be kept in the fund to accumulate
56 from year to year.

57 7. Nothing in this section shall be construed to prohibit a crime
58 victim from pursuing other lawful remedies against a defendant for
59 restitution.

559.105. 1. Any person who has been found guilty of or has pled guilty
2 to [a violation of subdivision (2) of subsection 1 of section 569.080 or paragraph
3 (a) of subdivision (3) of subsection 3 of section 570.030] **an offense** may be
4 ordered by the court to make restitution to the victim for the victim's losses due
5 to such offense. Restitution pursuant to this section shall include, but not be
6 limited to[, the following:

7 (1) A victim's reasonable expenses to participate in the prosecution of the
8 crime[;

9 (2) A victim's payment for any repairs or replacement of the motor vehicle,
10 watercraft, or aircraft; and

11 (3) A victim's costs associated with towing or storage fees for the motor
12 vehicle caused by the acts of the defendant].

13 2. No person ordered by the court to pay restitution pursuant to this
14 section shall be released from probation until such restitution is complete. If full
15 restitution is not made within the original term of probation, the court shall order
16 the maximum term of probation allowed for such offense.

17 3. Any person eligible to be released on parole [for a violation of
18 subdivision (2) of subsection 1 of section 569.080 or paragraph (a) of subdivision
19 (3) of subsection 3 of section 570.030 may] **shall** be required, as a condition of
20 parole, to make restitution pursuant to this section. The board of probation and
21 parole shall not release any person from any term of parole for such offense until
22 the person has completed such restitution, or until the maximum term of parole
23 for such offense has been served.

24 4. **The court may set an amount of restitution to be paid by the**
25 **defendant. Said amount may be taken from the inmate's account at the**
26 **department of corrections while the defendant is incarcerated. Upon**
27 **conditional release or parole, if any amount of such court-ordered**
28 **restitution is unpaid, the payment of the unpaid balance may be**
29 **collected as a condition of conditional release or parole by the**
30 **prosecuting attorney or circuit attorney under section 559.100. The**
31 **prosecuting attorney or circuit attorney may refer any failure to make**
32 **such restitution as a condition of conditional release or parole to the**
33 **parole board for enforcement.**

559.115. 1. Neither probation nor parole shall be granted by the circuit
2 court between the time the transcript on appeal from the offender's conviction has
3 been filed in appellate court and the disposition of the appeal by such court.

4 2. Unless otherwise prohibited by subsection [5] 8 of this section, a circuit
5 court only upon its own motion and not that of the state or the offender shall
6 have the power to grant probation to an offender anytime up to one hundred
7 twenty days after such offender has been delivered to the department of
8 corrections but not thereafter. The court may request information and a
9 recommendation from the department concerning the offender and such offender's
10 behavior during the period of incarceration. Except as provided in this section,
11 the court may place the offender on probation in a program created pursuant to
12 section 217.777, or may place the offender on probation with any other conditions
13 authorized by law.

14 3. The court may recommend placement of an offender in a department
15 of corrections one hundred twenty-day program under this [section] **subsection**
16 or order such placement under subsection 4 of section 559.036. Upon the
17 recommendation or order of the court, the department of corrections shall assess
18 each offender to determine the appropriate **one hundred twenty-day** program
19 in which to place the offender, [including] **which may include placement in**
20 **the shock incarceration program** or institutional treatment **program**. When
21 the court recommends and receives placement of an offender in a department of
22 corrections one hundred twenty-day program, the offender shall be released on
23 probation if the department of corrections determines that the offender has
24 successfully completed the program except as follows. Upon successful completion
25 of a [treatment] program **under this subsection**, the board of probation and
26 parole shall advise the sentencing court of an offender's probationary release date
27 thirty days prior to release. [The court shall release the offender unless such
28 release constitutes an abuse of discretion. If the court determined that there is
29 an abuse of discretion, the court may order the execution of the offender's
30 sentence only after conducting a hearing on the matter within ninety to one
31 hundred twenty days of the offender's sentence. If the court does not respond
32 when an offender successfully completes the program, the offender shall be
33 released on probation. Upon successful completion of a shock incarceration
34 program, the board of probation and parole shall advise the sentencing court of
35 an offender's probationary release date thirty days prior to release.] The court
36 shall follow the recommendation of the department unless the court determines
37 that probation is not appropriate. If the court determines that probation is not
38 appropriate, the court may order the execution of the offender's sentence only
39 after conducting a hearing on the matter within ninety to one hundred twenty

40 days [of the offender's sentence. If the department determines that an offender
41 is not successful in a program, then after one hundred days of incarceration the
42 circuit court shall receive from] **from the date the offender was delivered**
43 **to the department of corrections. If the department determines the**
44 **offender has not successfully completed a one hundred twenty-day**
45 **program under this subsection, the offender shall be removed from the**
46 **program and the court shall be advised of the removal.** The department
47 [of corrections a] **shall** report on the offender's participation in the program and
48 [department] **may provide** recommendations for terms and conditions of an
49 offender's probation. The court shall then [release the offender on probation or
50 order the offender to remain in the department to serve the sentence imposed]
51 **have the power to grant probation or order the execution of the**
52 **offender's sentence.**

53 4. **If the court is advised that an offender is not eligible for**
54 **placement in a one hundred twenty-day program under subsection 3 of**
55 **this section, the court shall consider other authorized dispositions.** If
56 the department of corrections one hundred twenty-day program **under**
57 **subsection 3 of this section** is full, the court may place the offender in a
58 private program approved by the department of corrections or the court, the
59 expenses of such program to be paid by the offender, or in an available program
60 offered by another organization. If the offender is convicted of a class C or class
61 D nonviolent felony, the court may order probation while awaiting appointment
62 to treatment.

63 5. Except when the offender has been found to be a predatory sexual
64 offender pursuant to section 558.018, the court shall request [that the offender
65 be placed in the sexual offender assessment unit of the department of corrections]
66 **the department of corrections to conduct a sexual offender assessment**
67 if the defendant has pleaded guilty to or has been found guilty of sexual abuse
68 when classified as a class B felony. **Upon completion of the assessment, the**
69 **department shall provide to the court a report on the offender and may**
70 **provide recommendations for terms and conditions of an offender's**
71 **probation. The assessment shall not be considered a one hundred**
72 **twenty-day program as provided under subsection 3 of this**
73 **section. The process for granting probation to an offender who has**
74 **completed the assessment shall be as provided under subsections 2 and**
75 **6 of this section.**

76 6. Unless the offender is being granted probation pursuant to successful
77 completion of a one hundred twenty-day program the circuit court shall notify the
78 state in writing when the court intends to grant probation to the offender
79 pursuant to the provisions of this section. The state may, in writing, request a
80 hearing within ten days of receipt of the court's notification that the court intends
81 to grant probation. Upon the state's request for a hearing, the court shall grant
82 a hearing as soon as reasonably possible. If the state does not respond to the
83 court's notice in writing within ten days, the court may proceed upon its own
84 motion to grant probation.

85 7. An offender's first incarceration [for one hundred twenty days for
86 participation in a department of corrections program] **under this section** prior
87 to release on probation shall not be considered a previous prison commitment for
88 the purpose of determining a minimum prison term under the provisions of
89 section 558.019.

90 8. Notwithstanding any other provision of law, probation may not be
91 granted pursuant to this section to offenders who have been convicted of murder
92 in the second degree pursuant to section 565.021; [forcible] rape **in the first**
93 **degree** pursuant to section 566.030; [forcible] sodomy **in the first degree**
94 pursuant to section 566.060; statutory rape in the first degree pursuant to section
95 566.032; statutory sodomy in the first degree pursuant to section 566.062; child
96 molestation in the first degree pursuant to section 566.067 when classified as a
97 class A felony; abuse of a child pursuant to section 568.060 when classified as a
98 class A felony; an offender who has been found to be a predatory sexual offender
99 pursuant to section 558.018; or any offense in which there exists a statutory
100 prohibition against either probation or parole.

559.117. 1. The director of the department of corrections is authorized to
2 establish, as a three-year pilot program, a mental health assessment process.

3 2. Only upon a motion filed by the prosecutor in a criminal case, the judge
4 who is hearing the criminal case in a participating county may request that an
5 offender be placed in the department of corrections for one hundred twenty days
6 for a mental health assessment and for treatment if it appears that the offender
7 has a mental disorder or mental illness such that the offender may qualify for
8 probation including community psychiatric rehabilitation (CPR) programs and
9 such probation is appropriate and not inconsistent with public safety. Before the
10 judge rules upon the motion, the victim shall be given notice of such motion and
11 the opportunity to be heard. Upon recommendation of the court, the department

12 shall determine the offender's eligibility for the mental health assessment
13 process.

14 3. Following this assessment and treatment period, an assessment report
15 shall be sent to the sentencing court and the sentencing court may, if appropriate,
16 release the offender on probation. The offender shall be supervised on probation
17 by a state probation and parole officer, who shall work cooperatively with the
18 department of mental health to enroll eligible offenders in community psychiatric
19 rehabilitation (CPR) programs.

20 4. Notwithstanding any other provision of law, probation shall not be
21 granted under this section to offenders who:

22 (1) Have been found guilty of, or plead guilty to, murder in the second
23 degree under section 565.021;

24 (2) Have been found guilty of, or plead guilty to, [forcible] rape **in the**
25 **first degree** under section 566.030;

26 (3) Have been found guilty of, or plead guilty to, statutory rape in the first
27 degree under section 566.032;

28 (4) Have been found guilty of, or plead guilty to, [forcible] sodomy **in the**
29 **first degree** under section 566.060;

30 (5) Have been found guilty of, or plead guilty to, statutory sodomy in the
31 first degree under section 566.062;

32 (6) Have been found guilty of, or plead guilty to, child molestation in the
33 first degree under section 566.067 when classified as a class A felony;

34 (7) Have been found to be a predatory sexual offender under section
35 558.018; or

36 (8) Have been found guilty of, or plead guilty to, any offense for which
37 there exists a statutory prohibition against either probation or parole.

38 5. At the end of the three-year pilot, the director of the department of
39 corrections and the director of the department of mental health shall jointly
40 submit recommendations to the governor and to the general assembly by
41 December 31, 2015, on whether to expand the process statewide.

566.020. 1. [Whenever in this chapter the criminality of conduct depends
2 upon a victim's being incapacitated, no crime is committed if the actor reasonably
3 believed that the victim was not incapacitated and reasonably believed that the
4 victim consented to the act. The defendant shall have the burden of injecting the
5 issue of belief as to capacity and consent.

6 2.] Whenever in this chapter the criminality of conduct depends upon a

7 child being thirteen years of age or younger, it is no defense that the defendant
8 believed the child to be older.

9 [3.] 2. Whenever in this chapter the criminality of conduct depends upon
10 a child being under seventeen years of age, it is an affirmative defense that the
11 defendant reasonably believed that the child was seventeen years of age or older.

12 [4.] 3. Consent is not an affirmative defense to any offense under chapter
13 566 if the alleged victim is less than twelve years of age.

566.030. 1. A person commits the [crime] **offense** of [forcible] rape **in**
2 **the first degree** if [such person] **he or she** has sexual intercourse with another
3 person **who is incapacitated, incapable of consent, or lacks the capacity**
4 **to consent, or** by the use of forcible compulsion. Forcible compulsion includes
5 the use of a substance administered without a victim's knowledge or consent
6 which renders the victim physically or mentally impaired so as to be incapable
7 of making an informed consent to sexual intercourse.

8 2. [Forcible] **The offense of rape in the first degree** or an attempt to
9 commit [forcible] rape **in the first degree** is a felony for which the authorized
10 term of imprisonment is life imprisonment or a term of years not less than five
11 years, unless:

12 (1) In the course thereof the actor inflicts serious physical injury or
13 displays a deadly weapon or dangerous instrument in a threatening manner or
14 subjects the victim to sexual intercourse or deviate sexual intercourse with more
15 than one person, in which case the authorized term of imprisonment is life
16 imprisonment or a term of years not less than fifteen years;

17 (2) The victim is a child less than twelve years of age, in which case the
18 required term of imprisonment is life imprisonment without eligibility for
19 probation or parole until the [defendant] **offender** has served not less than
20 thirty years of such sentence or unless the [defendant] **offender** has reached the
21 age of seventy-five years and has served at least fifteen years of such sentence,
22 unless such [forcible] rape **in the first degree** is described under subdivision
23 (3) of this subsection; or

24 (3) The victim is a child less than twelve years of age and such [forcible]
25 rape **in the first degree or attempt to commit rape in the first degree**
26 was outrageously or wantonly vile, horrible or inhumane, in that it involved
27 torture or depravity of mind, in which case the required term of imprisonment is
28 life imprisonment without eligibility for probation, parole or conditional release.

29 3. Subsection 4 of section 558.019 shall not apply to the sentence of a

30 person who has [pleaded guilty to or has] been found guilty of [forcible] rape **in**
31 **the first degree or attempt to commit rape in the first degree** when the
32 victim is [under the age of] **less than twelve years of age**, and "life
33 imprisonment" shall mean imprisonment for the duration of a person's natural
34 life for the purposes of this section.

35 4. No person found guilty of [or pleading guilty to forcible] rape **in the**
36 **first degree** or an attempt to commit [forcible] rape **in the first degree** shall
37 be granted a suspended imposition of sentence or suspended execution of
38 sentence.

[566.040.] **566.031.** 1. A person commits the [crime] **offense** of [sexual
2 assault] **rape in the second degree** if he **or she** has sexual intercourse with
3 another person knowing that he **or she** does so without that person's consent.

4 2. [Sexual assault] **The offense of rape in the second degree** is a
5 class C felony.

566.060. 1. A person commits the [crime] **offense** of [forcible] sodomy **in**
2 **the first degree** if [such person] **he or she** has deviate sexual intercourse with
3 another person **who is incapacitated, incapable of consent, or lacks the**
4 **capacity to consent, or** by the use of forcible compulsion. Forcible compulsion
5 includes the use of a substance administered without a victim's knowledge or
6 consent which renders the victim physically or mentally impaired so as to be
7 incapable of making an informed consent to sexual intercourse.

8 2. [Forcible] **The offense of sodomy in the first degree** or an attempt
9 to commit [forcible] sodomy **in the first degree** is a felony for which the
10 authorized term of imprisonment is life imprisonment or a term of years not less
11 than five years, unless:

12 (1) In the course thereof the actor inflicts serious physical injury or
13 displays a deadly weapon or dangerous instrument in a threatening manner or
14 subjects the victim to sexual intercourse or deviate sexual intercourse with more
15 than one person, in which case the authorized term of imprisonment is life
16 imprisonment or a term of years not less than ten years; or

17 (2) The victim is a child less than twelve years [of age] **old**, in which case
18 the required term of imprisonment is life imprisonment without eligibility for
19 probation or parole until the [defendant] **offender** has served not less than
20 thirty years of such sentence or unless the [defendant] **offender** has reached the
21 age of seventy-five years and has served at least fifteen years of such sentence,
22 unless such [forcible] sodomy **in the first degree** is described under subdivision

23 (3) of this subsection; or

24 (3) The victim is a child less than twelve years of age and such [forcible]
25 sodomy **in the first degree or attempt to commit sodomy in the first**
26 **degree** was outrageously or wantonly vile, horrible or inhumane, in that it
27 involved torture or depravity of mind, in which case the required term of
28 imprisonment is life imprisonment without eligibility for probation, parole or
29 conditional release.

30 3. Subsection 4 of section 558.019 shall not apply to the sentence of a
31 person who has [pleaded guilty to or has] been found guilty of [forcible] sodomy
32 **in the first degree or an attempt to commit sodomy in the first degree**
33 when the victim is [under the age of] **less than twelve years of age**, and "life
34 imprisonment" shall mean imprisonment for the duration of a person's natural
35 life for the purposes of this section.

36 4. No person found guilty of [or pleading guilty to forcible] sodomy **in the**
37 **first degree** or an attempt to commit [forcible] sodomy **in the first degree**
38 shall be granted a suspended imposition of sentence or suspended execution of
39 sentence.

[566.070.] **566.061.** 1. A person commits the [crime of deviate sexual
2 assault] **offense of sodomy in the second degree** if he **or she** has deviate
3 sexual intercourse with another person knowing that he **or she** does so without
4 that person's consent.

5 2. [Deviate sexual assault] **The offense of sodomy in the second**
6 **degree** is a class C felony.

566.093. 1. A person commits the [crime] **offense** of sexual misconduct
2 in the [second] **first degree** if such person:

3 (1) Exposes his or her genitals under circumstances in which he or she
4 knows that his or her conduct is likely to cause affront or alarm;

5 (2) Has sexual contact in the presence of a third person or persons under
6 circumstances in which he or she knows that such conduct is likely to cause
7 affront or alarm; or

8 (3) Has sexual intercourse or deviate sexual intercourse in a public place
9 in the presence of a third person.

10 2. **The offense of** sexual misconduct in the [second] **first degree** is a
11 class B misdemeanor unless the [actor] **person** has previously been [convicted]
12 **found guilty** of an offense under this chapter, in which case it is a class A
13 misdemeanor.

566.095. 1. A person commits the [crime] **offense** of sexual misconduct
2 in the [third] **second** degree if he **or she** solicits or requests another person to
3 engage in sexual conduct under circumstances in which he **or she** knows that
4 [his requests] **such request** or solicitation is likely to cause affront or alarm.

5 2. **The offense of** sexual misconduct in the [third] **second** degree is a
6 class C misdemeanor.

566.100. 1. A person commits the [crime] **offense** of sexual abuse **in the**
2 **first degree** if he **or she** subjects another person to sexual contact **when that**
3 **person is incapacitated, incapable of consent, or lacks the capacity to**
4 **consent, or** by the use of forcible compulsion.

5 2. **The offense of** sexual abuse **in the first degree** is a class C felony
6 unless in the course thereof the actor inflicts serious physical injury or displays
7 a deadly weapon or dangerous instrument in a threatening manner or subjects
8 the victim to sexual contact with more than one person or the victim is less than
9 fourteen years of age, in which case [the crime] **it** is a class B felony.

[566.090.] **566.101.** 1. A person commits the [crime] **offense** of sexual
2 [misconduct] **abuse** in the [first] **second** degree if [such person] **he or she**
3 purposely subjects another person to sexual contact without that person's consent.

4 2. **The offense of** sexual [misconduct] **abuse** in the [first] **second**
5 degree is a class A misdemeanor, unless the actor has previously been convicted
6 of an offense under this chapter or unless in the course thereof the actor displays
7 a deadly weapon in a threatening manner or the offense is committed as a part
8 of a ritual or ceremony, in which case it is a class D felony.

566.224. No prosecuting or circuit attorney, peace officer, governmental
2 official, or employee of a law enforcement agency shall request or require a victim
3 of [sexual assault] **rape in the second degree** under section [566.040 or
4 forcible] **566.031 or rape in the first degree** under section 566.030 to submit
5 to any polygraph test or psychological stress evaluator exam as a condition for
6 proceeding with a criminal investigation of such crime.

566.226. 1. After August 28, 2007, any information contained in any court
2 record, whether written or published on the internet, that could be used to
3 identify or locate any victim of [sexual assault,] domestic assault, stalking, or
4 [forcible] **rape in the first or second degree** shall be closed and redacted from
5 such record prior to disclosure to the public. Identifying information shall include
6 the name, home or temporary address, telephone number, Social Security number
7 or physical characteristics.

8 2. If the court determines that a person or entity who is requesting
9 identifying information of a victim has a legitimate interest in obtaining such
10 information, the court may allow access to the information, but only if the court
11 determines that disclosure to the person or entity would not compromise the
12 welfare or safety of such victim.

13 3. Notwithstanding the provisions of subsection 1 of this section, the judge
14 presiding over a [sexual assault,] domestic assault, stalking, or [forcible] rape in
15 **the first or second degree** case shall have the discretion to publicly disclose
16 identifying information regarding the defendant which could be used to identify
17 or locate the victim of the crime. The victim may provide a statement to the court
18 regarding whether he or she desires such information to remain closed. When
19 making the decision to disclose such information, the judge shall consider the
20 welfare and safety of the victim and any statement to the court received from the
21 victim regarding the disclosure.

570.120. 1. A person commits the crime of passing a bad check when:

2 (1) With purpose to defraud, the person makes, issues or passes a check
3 or other similar sight order or any other form of presentment involving the
4 transmission of account information for the payment of money, knowing that it
5 will not be paid by the drawee, or that there is no such drawee; or

6 (2) The person makes, issues, or passes a check or other similar sight
7 order or any other form of presentment involving the transmission of account
8 information for the payment of money, knowing that there are insufficient funds
9 in or on deposit with that account for the payment of such check, sight order, or
10 other form of presentment involving the transmission of account information in
11 full and all other checks, sight orders, or other forms of presentment involving the
12 transmission of account information upon such funds then outstanding, or that
13 there is no such account or no drawee and fails to pay the check or sight order or
14 other form of presentment involving the transmission of account information
15 within ten days after receiving actual notice in writing that it has not been paid
16 because of insufficient funds or credit with the drawee or because there is no such
17 drawee.

18 2. As used in subdivision (2) of subsection 1 of this section, "actual notice
19 in writing" means notice of the nonpayment which is actually received by the
20 defendant. Such notice may include the service of summons or warrant upon the
21 defendant for the initiation of the prosecution of the check or checks which are
22 the subject matter of the prosecution if the summons or warrant contains

23 information of the ten-day period during which the instrument may be paid and
24 that payment of the instrument within such ten-day period will result in
25 dismissal of the charges. The requirement of notice shall also be satisfied for
26 written communications which are tendered to the defendant and which the
27 defendant refuses to accept.

28 3. The face amounts of any bad checks passed pursuant to one course of
29 conduct within any ten-day period may be aggregated in determining the grade
30 of the offense.

31 4. Passing bad checks is a class A misdemeanor, unless:

32 (1) The face amount of the check or sight order or the aggregated amounts
33 is five hundred dollars or more; or

34 (2) The issuer had no account with the drawee or if there was no such
35 drawee at the time the check or order was issued, in which cases passing bad
36 checks is a class C felony.

37 5. (1) In addition to all other costs and fees allowed by law, each
38 prosecuting attorney or circuit attorney who takes any action pursuant to the
39 provisions of this section shall collect from the issuer in such action an
40 administrative handling cost. The cost shall be twenty-five dollars for checks of
41 less than one hundred dollars, and fifty dollars for checks of one hundred dollars
42 but less than two hundred fifty dollars. For checks of two hundred fifty dollars
43 or more an additional fee of ten percent of the face amount shall be assessed, with
44 a maximum fee for administrative handling costs not to exceed seventy-five
45 dollars total. Notwithstanding the provisions of sections 50.525 to 50.745, the
46 costs provided for in this subsection shall be deposited by the county treasurer
47 into a separate interest-bearing fund to be expended by the prosecuting attorney
48 or circuit attorney. **This fund shall be known as the "Administrative**
49 **Handling Cost Fund", and it shall be the fund for deposits under this**
50 **section and under section 559.100.** The funds shall be expended, upon
51 warrants issued by the prosecuting attorney or circuit attorney directing the
52 treasurer to issue checks thereon, only for purposes related to that previously
53 authorized in this section. Any revenues that are not required for the purposes
54 of this section may be placed in the general revenue fund of the county or city not
55 within a county. Notwithstanding any law to the contrary, in addition to the
56 administrative handling cost, the prosecuting attorney or circuit attorney shall
57 collect an additional cost of five dollars per check for deposit to the Missouri office
58 of prosecution services fund established in subsection 2 of section 56.765. All

59 moneys collected pursuant to this section which are payable to the Missouri office
60 of prosecution services fund shall be transmitted at least monthly by the county
61 treasurer to the director of revenue who shall deposit the amount collected
62 pursuant to the credit of the Missouri office of prosecution services fund under
63 the procedure established pursuant to subsection 2 of section 56.765.

64 (2) The moneys deposited in the fund may be used by the prosecuting or
65 circuit attorney for office supplies, postage, books, training, office equipment,
66 capital outlay, expenses of trial and witness preparation, additional employees
67 for the staff of the prosecuting or circuit attorney, employees' salaries, and for
68 other lawful expenses incurred by the circuit or prosecuting attorney in operation
69 of that office.

70 (3) This fund may be audited by the state auditor's office or the
71 appropriate auditing agency.

72 (4) If the moneys collected and deposited into this fund are not totally
73 expended annually, then the unexpended balance shall remain in said fund and
74 the balance shall be kept in said fund to accumulate from year to year.

75 6. Notwithstanding any other provision of law to the contrary:

76 (1) In addition to the administrative handling costs provided for in
77 subsection 5 of this section, the prosecuting attorney or circuit attorney may
78 collect from the issuer, in addition to the face amount of the check, a reasonable
79 service charge, which along with the face amount of the check, shall be turned
80 over to the party to whom the bad check was issued;

81 (2) If a check that is dishonored or returned unpaid by a financial
82 institution is not referred to the prosecuting attorney or circuit attorney for any
83 action pursuant to the provisions of this section, the party to whom the check was
84 issued, or his or her agent or assignee, or a holder, may collect from the issuer,
85 in addition to the face amount of the check, a reasonable service charge, not to
86 exceed twenty-five dollars, plus an amount equal to the actual charge by the
87 depository institution for the return of each unpaid or dishonored instrument.

88 7. When any financial institution returns a dishonored check to the person
89 who deposited such check, it shall be in substantially the same physical condition
90 as when deposited, or in such condition as to provide the person who deposited
91 the check the information required to identify the person who wrote the check.

573.037. 1. A person commits the [crime] **offense** of possession of child
2 pornography if such person knowingly or recklessly possesses any child
3 pornography of a minor [under the age of] **less than eighteen years old** or

4 obscene material portraying what appears to be a minor [under the age of] less
5 **than eighteen years old.**

6 2. **The offense of** possession of child pornography is a class C felony
7 [unless] **if the person possesses one still image of child pornography or**
8 **one obscene still image. The offense of possession of child pornography**
9 **is a class B felony if** the person:

10 (1) Possesses:

11 (a) More than twenty still images of child pornography[, possesses]; or

12 (b) **More than twenty obscene still images; or**

13 (c) **Child pornography comprised of** one motion picture, film,
14 videotape, videotape production, or other moving image [of child pornography,];
15 **or**

16 (d) **Obscene material comprised of one motion picture, film,**
17 **videotape production, or other moving image; or**

18 (2) Has **previously** pleaded guilty to or has been found guilty of an
19 offense under this section[, in which case it is a class B felony].

20 3. **A person who has committed the offense of possession of child**
21 **pornography is subject to separate punishments for each item of child**
22 **pornography or obscene material possessed by the person.**

589.015. As used in sections 589.010 to 589.040:

2 (1) The term "center" shall mean the state center for the prevention and
3 control of sexual assault established pursuant to section 589.030;

4 (2) The term "sexual assault" shall include:

5 (a) The acts of rape **in the first or second degree**, [forcible rape,]
6 statutory rape in the first degree, statutory rape in the second degree, [sexual
7 assault,] sodomy **in the first or second degree**, [forcible sodomy,] statutory
8 sodomy in the first degree, statutory sodomy in the second degree, child
9 molestation in the first degree, child molestation in the second degree, [deviate
10 sexual assault,] sexual misconduct and sexual abuse, or attempts to commit any
11 of the aforesaid, as these acts are defined in chapter 566;

12 (b) The act of incest, as this act is defined in section 568.020;

13 (c) The act of abuse of a child, as defined in subdivision (1) of subsection
14 1 of section 568.060, which involves sexual contact, and as defined in subdivision
15 (2) of subsection 1 of section 568.060;

16 (d) The act of use of a child in a sexual performance as defined in section
17 568.080; and

18 (e) The act of enticement of a child, as defined in section 566.151, or any
19 attempt to commit such act.

590.700. 1. As used in this section, the following terms shall mean:

2 (1) "Custodial interrogation", the questioning of a person under arrest,
3 who is no longer at the scene of the crime, by a member of a law enforcement
4 agency along with the answers and other statements of the person
5 questioned. "Custodial interrogation" shall not include:

6 (a) A situation in which a person voluntarily agrees to meet with a
7 member of a law enforcement agency;

8 (b) A detention by a law enforcement agency that has not risen to the
9 level of an arrest;

10 (c) Questioning that is routinely asked during the processing of the arrest
11 of the suspect;

12 (d) Questioning pursuant to an alcohol influence report;

13 (e) Questioning during the transportation of a suspect;

14 (2) "Recorded" and "recording", any form of audiotape, videotape, motion
15 picture, or digital recording.

16 2. All custodial interrogations of persons suspected of committing or
17 attempting to commit murder in the first degree, murder in the second degree,
18 assault in the first degree, assault of a law enforcement officer in the first degree,
19 domestic assault in the first degree, elder abuse in the first degree, robbery in the
20 first degree, arson in the first degree, [forcible] rape **in the first degree**,
21 [forcible] sodomy **in the first degree**, kidnapping, statutory rape in the first
22 degree, statutory sodomy in the first degree, child abuse, or child kidnapping
23 shall be recorded when feasible.

24 3. Law enforcement agencies may record an interrogation in any
25 circumstance with or without the knowledge or consent of a suspect, but they
26 shall not be required to record an interrogation under subsection 2 of this section:

27 (1) If the suspect requests that the interrogation not be recorded;

28 (2) If the interrogation occurs outside the state of Missouri;

29 (3) If exigent public safety circumstances prevent recording;

30 (4) To the extent the suspect makes spontaneous statements;

31 (5) If the recording equipment fails; or

32 (6) If recording equipment is not available at the location where the
33 interrogation takes place.

34 4. Each law enforcement agency shall adopt a written policy to record

35 custodial interrogations of persons suspected of committing or attempting to
36 commit the felony crimes described in subsection 2 of this section.

37 5. If a law enforcement agency fails to comply with the provisions of this
38 section, the governor may withhold any state funds appropriated to the
39 noncompliant law enforcement agency if the governor finds that the agency did
40 not act in good faith in attempting to comply with the provisions of this section.

41 6. Nothing in this section shall be construed as a ground to exclude
42 evidence, and a violation of this section shall not have impact other than that
43 provided for in subsection 5 of this section. Compliance or noncompliance with
44 this section shall not be admitted as evidence, argued, referenced, considered or
45 questioned during a criminal trial.

46 7. Nothing contained in this section shall be construed to authorize,
47 create, or imply a private cause of action.

595.220. 1. The department of public safety shall make payments to
2 appropriate medical providers, out of appropriations made for that purpose, to
3 cover the reasonable charges of the forensic examination of persons who may be
4 a victim of a sexual offense if:

5 (1) The victim or the victim's guardian consents in writing to the
6 examination; and

7 (2) The report of the examination is made on a form approved by the
8 attorney general with the advice of the department of public safety. The
9 department shall establish maximum reimbursement rates for charges submitted
10 under this section, which shall reflect the reasonable cost of providing the
11 forensic exam.

12 2. A minor may consent to examination under this section. Such consent
13 is not subject to disaffirmance because of minority, and consent of parent or
14 guardian of the minor is not required for such examination. The appropriate
15 medical provider making the examination shall give written notice to the parent
16 or guardian of a minor that such an examination has taken place.

17 3. The attorney general, with the advice of the department of public
18 safety, shall develop the forms and procedures for gathering evidence during the
19 forensic examination under the provisions of this section. The department of
20 health and senior services shall develop a checklist, protocols, and procedures for
21 appropriate medical providers to refer to while providing medical treatment to
22 victims of a sexual offense, including those specific to victims who are minors.

23 4. Evidentiary collection kits shall be developed and made available,

24 subject to appropriation, to appropriate medical providers by the highway patrol
25 or its designees and eligible crime laboratories. Such kits shall be distributed
26 with the forms and procedures for gathering evidence during forensic
27 examinations of victims of a sexual offense to appropriate medical providers upon
28 request of the provider, in the amount requested, and at no charge to the medical
29 provider. All appropriate medical providers shall, with the written consent of the
30 victim, perform a forensic examination using the evidentiary collection kit, or
31 other collection procedures developed for victims who are minors, and forms and
32 procedures for gathering evidence following the checklist for any person
33 presenting as a victim of a sexual offense.

34 5. In reviewing claims submitted under this section, the department shall
35 first determine if the claim was submitted within ninety days of the examination.
36 If the claim is submitted within ninety days, the department shall, at a
37 minimum, use the following criteria in reviewing the claim: examination charges
38 submitted shall be itemized and fall within the definition of forensic examination
39 as defined in subdivision (3) of subsection 7 of this section.

40 6. All appropriate medical provider charges for eligible forensic
41 examinations shall be billed to and paid by the department of public safety. No
42 appropriate medical provider conducting forensic examinations and providing
43 medical treatment to victims of sexual offenses shall charge the victim for the
44 forensic examination. For appropriate medical provider charges related to the
45 medical treatment of victims of sexual offenses, if the victim is an eligible
46 claimant under the crime victims' compensation fund, the victim shall seek
47 compensation under sections 595.010 to 595.075.

48 **7. The department of public safety shall establish rules regarding**
49 **the reimbursement of the costs of forensic examinations for children**
50 **under fourteen years of age, including establishing conditions and**
51 **definitions for emergency and nonemergency forensic examinations and**
52 **specific qualifications for appropriate medical providers performing**
53 **nonemergency forensic examinations.**

54 8. For purposes of this section, the following terms mean:

55 (1) "Appropriate medical provider", any licensed nurse, physician, or
56 physician assistant, and any institution employing licensed nurses, physicians,
57 or physician assistants, provided that such licensed professionals are the only
58 persons at such institution to perform tasks under the provisions of this
59 section. **The department of public safety may establish additional**

60 **qualifications for appropriate medical providers performing**
61 **nonemergency forensic evaluations for children under fourteen years**
62 **of age;**

63 (2) **"Emergency forensic examination", an examination of a person**
64 **under fourteen years of age that occurs within five days of the alleged**
65 **sexual assault or other definition adopted by the department of public**
66 **safety;**

67 (3) **"Evidentiary collection kit", a kit used during a forensic examination**
68 **that includes materials necessary for appropriate medical providers to gather**
69 **evidence in accordance with the forms and procedures developed by the attorney**
70 **general for forensic examinations;**

71 [(3)] (4) **"Forensic examination", an examination performed by an**
72 **appropriate medical provider on a victim of an alleged sexual offense to gather**
73 **evidence for the evidentiary collection kit or using other collection procedures**
74 **developed for victims who are minors;**

75 [(4)] (5) **"Medical treatment", the treatment of all injuries and health**
76 **concerns resulting directly from a patient's sexual assault or victimization;**

77 (6) **"Nonemergency forensic examination", an examination of a**
78 **person under fourteen years of age that occurs more than five days**
79 **after the alleged sexual assault or other definition adopted by the**
80 **department of public safety.**

81 [8.] 9. The department shall have authority to promulgate rules and
82 regulations necessary to implement the provisions of this section. Any rule or
83 portion of a rule, as that term is defined in section 536.010, that is created under
84 the authority delegated in this section shall become effective only if it complies
85 with and is subject to all of the provisions of chapter 536 and, if applicable,
86 section 536.028. This section and chapter 536 are nonseverable and if any of the
87 powers vested with the general assembly pursuant to chapter 536 to review, to
88 delay the effective date, or to disapprove and annul a rule are subsequently held
89 unconstitutional, then the grant of rulemaking authority and any rule proposed
90 or adopted after August 28, 2009, shall be invalid and void.

600.011. The following words and phrases as used in this chapter have the
2 following meanings, unless the context otherwise requires:

3 (1) **"Assigned counsel" means private attorneys who are hired by the state**
4 **public defender director to handle the cases of eligible persons from time to time**
5 **on a case basis;**

6 (2) ["Chief deputy director" means the attorney appointed by the
7 commission to assist the state public defender director and to exercise the duties
8 and powers of the director in his absence or upon his resignation;

9 (3) **"Assistant public defender", a staff attorney within a
10 particular public defender office responsible for the handling of cases
11 of eligible persons;**

12 (3) "Commission" [means], the public defender commission;

13 (4) "Defender(s)", includes both attorneys which serve as staff attorneys
14 in the state defender system and [assigned] **contract** counsel [who provide
15 defense services on a case basis], but does not include secretarial, investigative,
16 social service, or paraprofessional staff;

17 (5) **"Deputy director", the attorney or attorneys appointed by the
18 commission to assist the state public defender director and to
19 temporarily exercise the duties and powers of the director in his or her
20 absence or upon his or her resignation, pending the commission's
21 appointment of a new director;**

22 (6) **"Deputy district defender", an attorney who assists the
23 district defender in the management and supervision of a public
24 defender district office and performs the duty of the district defender
25 in his or her absence;**

26 (7) "Director" [means], the state public defender director;

27 [(6)] (8) **"District defender", the managing attorney in charge of
28 a public defender district office;**

29 (9) **"Division director", an employee responsible for the
30 supervision and management of multiple district offices or areas of
31 statewide responsibility as assigned by the director, or both;**

32 (10) "Eligible person" [means], a person who falls within the financial
33 rules for legal representation at public expense prescribed by section 600.086;

34 [(7)] (11) **"State public defender system" [means], a system for providing
35 defense services to every jurisdiction within the state by means of a centrally
36 administered organization having a full-time staff.**

600.040. 1. The city or county shall provide office space and utility
2 services, other than telephone service, for the [circuit or regional] **district** public
3 defender and his **or her** personnel. If there is more than one county in a [circuit
4 or region] **district**, each county shall contribute, on the basis of population, its
5 pro rata share of the costs of office space and utility services, other than

6 telephone service. The state shall pay, within the limits of the appropriation
7 therefor, all other expenses and costs of the state public defender system
8 authorized under this chapter.

9 2. A complete budget for the state public defender system shall be
10 provided through an annual appropriation subject to approval by the governor
11 and the general assembly. The budget request for the state public defender
12 system shall be approved by the commission and submitted directly to the
13 governor and the general assembly by the director and shall not be subject to
14 diminution or alteration by the judicial department of state government.

15 3. Any person who is a public defender or employee of a public defender
16 shall be entitled to all benefits of the Missouri state employees' retirement system
17 as defined in sections 104.310 to 104.550.

600.042. 1. The director shall:

2 (1) Direct and supervise the work of the deputy directors and other state
3 public defender office personnel appointed pursuant to this chapter; and he **or**
4 **she** and the [chief] deputy director **or directors** may participate in the trial and
5 appeal of criminal actions at the request of the defender;

6 (2) Submit to the commission, between August fifteenth and September
7 fifteenth of each year, a report which shall include all pertinent data on the
8 operation of the state public defender system, the costs, projected needs, and
9 recommendations for statutory changes. Prior to October fifteenth of each year,
10 the commission shall submit such report along with such recommendations,
11 comments, conclusions, or other pertinent information it chooses to make to the
12 chief justice, the governor, and the general assembly. Such reports shall be a
13 public record, shall be maintained in the office of the state public defender, and
14 shall be otherwise distributed as the commission shall direct;

15 (3) With the approval of the commission, establish such divisions,
16 facilities and offices and select such professional, technical and other personnel,
17 including investigators, as he deems reasonably necessary for the efficient
18 operation and discharge of the duties of the state public defender system under
19 this chapter;

20 (4) Administer and coordinate the operations of defender services and be
21 responsible for the overall supervision of all personnel, offices, divisions and
22 facilities of the state public defender system, except that the director shall have
23 no authority to direct or control the legal defense provided by a defender to any
24 person served by the state public defender system;

25 (5) Develop programs and administer activities to achieve the purposes
26 of this chapter;

27 (6) Keep and maintain proper financial records with respect to the
28 [providing] **provision** of all public defender services for use in the calculating
29 of direct and indirect costs of any or all aspects of the operation of the state
30 public defender system;

31 (7) Supervise the training of all public defenders, [assistant public
32 defenders, deputy public defenders] and other personnel and establish such
33 training courses as shall be appropriate;

34 (8) With approval of the commission, promulgate necessary rules,
35 regulations and instructions consistent with this chapter defining the
36 organization of [his office] **the state public defender system** and the
37 responsibilities of [public] **division directors, district** defenders, [assistant
38 public] **deputy district** defenders, [deputy] **assistant** public defenders and
39 other personnel;

40 (9) With the approval of the commission, apply for and accept on behalf
41 of the public defender system any funds which may be offered or which may
42 become available from government grants, private gifts, donations or bequests or
43 from any other source. Such moneys shall be deposited in the state general
44 revenue fund;

45 (10) Contract for legal services with private attorneys on a case-by-case
46 basis and with assigned counsel as the commission deems necessary considering
47 the needs of the area, for fees approved and established by the commission;

48 (11) With the approval and on behalf of the commission, contract with
49 private attorneys for the collection and enforcement of liens and other judgments
50 owed to the state for services rendered by the state public defender system;

51 **(12) Prepare a plan to establish district offices, the boundaries**
52 **of which shall coincide with existing judicial circuits. Any district**
53 **office may contain more than one judicial circuit within its boundaries,**
54 **but in no event shall any district office boundary include any**
55 **geographic region of a judicial circuit without including the entire**
56 **judicial circuit. The director shall submit the plan to the chair of the**
57 **house judiciary committee and the chair of the senate judiciary**
58 **committee, with fiscal estimates, by December 31, 2014. The plan shall**
59 **be implemented by December 31, 2018.**

60 2. No rule or portion of a rule promulgated under the authority of this

61 chapter shall become effective unless it has been promulgated pursuant to the
62 provisions of section 536.024.

63 3. The director and defenders shall, within guidelines as established by
64 the commission and as set forth in subsection 4 of this section, accept requests
65 for legal services from eligible persons entitled to counsel under this chapter or
66 otherwise so entitled under the constitution or laws of the United States or of the
67 state of Missouri and provide such persons with legal services when, in the
68 discretion of the director or the defenders, such provision of legal services is
69 appropriate.

70 4. The director and defenders shall provide legal services to an eligible
71 person:

72 (1) Who is detained or charged with a felony, including appeals from a
73 conviction in such a case;

74 (2) Who is detained or charged with a misdemeanor which will probably
75 result in confinement in the county jail upon conviction, including appeals from
76 a conviction in such a case, **unless the prosecuting or circuit attorney has**
77 **waived a jail sentence;**

78 (3) Who is [detained or] charged with a violation of probation [or parole]
79 **when it has been determined by a judge that the appointment of**
80 **counsel is necessary to protect the person's due process rights under**
81 **section 559.036;**

82 (4) Who has been taken into custody pursuant to section 632.489,
83 including appeals from a determination that the person is a sexually violent
84 predator and petitions for release, notwithstanding any provisions of law to the
85 contrary;

86 (5) For whom the federal constitution or the state constitution requires
87 the appointment of counsel; and

88 (6) [For whom,] **Who is charged** in a case in which he **or she** faces a
89 loss or deprivation of liberty, **and in which the federal or the state**
90 **constitution or** any law of this state requires the appointment of counsel;
91 however, the director and the defenders shall not be required to provide legal
92 services to persons charged with violations of county or municipal ordinances, **or**
93 **misdemeanor offenses except as provided in this section.**

94 5. The director may:

95 (1) Delegate the legal representation of any person to any member of the
96 state bar of Missouri;

97 (2) Designate persons as representatives of the director for the purpose
98 of making indigency determinations and assigning counsel.

600.048. 1. It shall be the duty of every person in charge of a jail, police
2 station, constable's or sheriff's office, or detention facility provided by any county
3 to post in a conspicuous place a notice stating in effect:

4 (1) That every person held in custody under a charge or suspicion of a
5 crime is entitled to have a lawyer;

6 (2) That if any such person is held in custody in connection with any of
7 the cases or proceedings set out in section 600.042, and wants a lawyer to
8 represent him **or her** and is unable, without substantial financial hardship to
9 [himself] **self** or his **or her** dependents, to obtain a lawyer, the state will provide
10 a lawyer to represent him [if he requests such representation] **or her upon**
11 **request**; and

12 (3) That if the state provides **such** a lawyer [for him, he], **the client** may
13 be liable to the state for the cost of the services and expenses of the lawyer who
14 handles [his] **the** case if he **or she** is or will be able to pay all or any part of such
15 costs. The notice shall also contain a listing of the cases and proceedings for
16 which defender services are available under section 600.042, and the telephone
17 number of a person or answering service to call to request that a person
18 designated by the state public defender system visit and interview him **or her**,
19 and [give him] **provide** further information.

20 2. A person who is charged or detained in any case listed in section
21 600.042 or who appears in court without counsel at any stage of a case, or any
22 other person on behalf of such person, may request that legal representation be
23 furnished to him **or her** by the state. The court or any person representing the
24 state public defender system to whom such request is made shall first [give him]
25 **provide** a copy of the notice referred to in subsection 1 of this section or call the
26 posted notice to [his] **the charged or detained person's** attention and permit
27 him **or her** to read it or [explain it] **have it explained** to him **or her**. If such
28 person renews a request for state public defender system services, he **or she**
29 shall be required to complete and sign an affidavit in accordance with section
30 600.086[. He] **and** shall be orally informed of the punishment for intentionally
31 falsifying such affidavit.

32 3. It shall be the duty of every person in charge of a jail, police station,
33 constable's or sheriff's office, or detention facility to make a room or place
34 available therein where any person held in custody under a charge or suspicion

35 of a crime will be able to talk privately with his **or her** lawyer, [his] lawyer's
36 representative, or any authorized person responding to [his] a request for an
37 interview concerning his **or her** right to counsel.

**600.062. Notwithstanding the provisions of sections 600.017 and
2 600.042 to the contrary, neither the director nor the commission shall
3 have the authority to limit the availability of a district office or any
4 division director, district defender, deputy district defender, or
5 assistant public defender to accept cases based on a determination that
6 the office has exceeded a caseload standard. The director, commission,
7 any division director, district defender, deputy district defender, or
8 assistant public defender may not refuse to provide representation
9 required under this chapter without prior approval from a court of
10 competent jurisdiction.**

**600.063. 1. Upon approval by the director or the commission, any
2 district defender may file a motion to request a conference to discuss
3 caseload issues involving any individual public defender or defenders,
4 but not the entire office, with the presiding judge of any circuit court
5 served by the district office. The motion shall state the reasons why
6 the individual public defender or public defenders will be unable to
7 provide effective assistance of counsel due to caseload concerns. When
8 a motion to request a conference has been filed, the clerk of the court
9 shall immediately provide a copy of the motion to the prosecuting or
10 circuit attorney who serves the circuit court.**

**2. If the presiding judge approves the motion, a date for the
12 conference shall be set within thirty days of the filing of the
13 motion. The court shall provide notice of the conference date and time
14 to the district defender and the prosecuting or circuit attorney.**

**3. Within thirty days of the conference, the presiding judge shall
16 issue an order either granting or denying relief. If relief is granted, it
17 shall be based upon a finding that the individual public defender or
18 defenders will be unable to provide effective assistance of counsel due
19 to caseload issues. The judge may order one or more of the following
20 types of relief in any appropriate combination:**

**(1) Appoint private counsel to represent any eligible defendant
22 pursuant to the provisions of section 600.064;**

**(2) Investigate the financial status of any defendant determined
24 to be eligible for public defender representation under section 600.086**

25 and make findings regarding the eligibility of such defendants;

26 (3) Determine, with the express concurrence of the prosecuting
27 or circuit attorney, whether any cases can be disposed of without the
28 imposition of a jail or prison sentence and allow such cases to proceed
29 without the provision of counsel to the defendant;

30 (4) Modify the conditions of release ordered in any case in which
31 the defendant is being represented by a public defender, including, but
32 not limited to, reducing the amount of any bond required for release;

33 (5) Place cases on a waiting list for defender services, taking into
34 account the seriousness of the case, the incarceration status of the
35 defendant, and such other special circumstances as may be brought to
36 the attention of the court by the prosecuting or circuit attorney, the
37 district defender, or other interested parties; and

38 (6) Grant continuances.

39 4. Upon receiving the order, the prosecuting or circuit attorney
40 and the district defender shall have ten days to file an application for
41 review to the appropriate appellate court. Such appeal shall be
42 expedited by the court in every manner practicable.

43 5. Nothing in this section shall deny any party the right to seek
44 any relief authorized by law nor shall any provisions of this section be
45 construed as providing a basis for a claim for post conviction relief by
46 a defendant.

47 6. The commission and the supreme court may make such rules
48 and regulations to implement this section. Any rule or portion of a
49 rule, as that term is defined in section 536.010, that is created by the
50 commission under the authority delegated in this section shall become
51 effective only if it complies with and is subject to all of the provisions
52 of chapter 536 and, if applicable, section 536.028. This section and
53 chapter 536 are nonseverable and if any of the powers vested with the
54 general assembly pursuant to chapter 536 to review, to delay the
55 effective date, or to disapprove and annul a rule are subsequently held
56 unconstitutional, then the grant of rulemaking authority and any rule
57 proposed or adopted after August 28, 2013, shall be invalid and void.

600.064. 1. Before a circuit court judge appoints private counsel
2 to represent an indigent defendant, the judge shall:

3 (1) Investigate the defendant's financial status to verify that the
4 defendant does not have the means to obtain counsel; and

5 **(2) Provide each appointed lawyer, upon request, with an**
6 **evidentiary hearing as to the propriety of the appointment, taking into**
7 **consideration the lawyer's right to earn a livelihood and be free from**
8 **involuntary servitude. If the judge determines after the hearing that**
9 **the appointment will cause any undue hardship to the lawyer, the judge**
10 **shall appoint another lawyer.**

11 **2. No judge shall require a lawyer to advance personal funds in**
12 **any amount for the payment of litigation expenses to prepare a proper**
13 **defense for an indigent defendant.**

14 **3. If an employee of the general assembly is appointed to**
15 **represent an indigent defendant during the time period beginning**
16 **January first and ending June first of each year, or whenever the**
17 **general assembly is in a veto session or special session or is holding**
18 **out-of-session committee hearings, the judge who made the**
19 **appointment shall postpone the trial and all other proceedings of any**
20 **kind or nature to a date that does not fall within such time period or**
21 **appoint a different lawyer who is not an employee of the general**
22 **assembly to represent the defendant.**

23 **4. Private counsel appointed to represent an indigent defendant**
24 **may seek payment of litigation expenses from the public defender**
25 **system. Such litigation expenses shall not include counsel fees and**
26 **shall be limited to those expenses approved in advance by the director**
27 **as reasonably necessary for the proper defense of the defendant.**

 632.480. As used in sections 632.480 to 632.513, the following terms
2 mean:

3 (1) "Agency with jurisdiction", the department of corrections or the
4 department of mental health;

5 (2) "Mental abnormality", a congenital or acquired condition affecting the
6 emotional or volitional capacity which predisposes the person to commit sexually
7 violent offenses in a degree constituting such person a menace to the health and
8 safety of others;

9 (3) "Predatory", acts directed towards individuals, including family
10 members, for the primary purpose of victimization;

11 (4) "Sexually violent offense", the felonies of **rape in the first degree,**
12 **forcible rape, rape, statutory rape in the first degree, sodomy in the first**
13 **degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an**

14 attempt to commit any of the preceding crimes, or child molestation in the first
15 or second degree, sexual abuse **in the first degree**, sexual assault, deviate
16 sexual assault, **rape in the second degree, sodomy in the second degree**,
17 or the act of abuse of a child as defined in subdivision (1) of subsection 1 of
18 section 568.060 which involves sexual contact, and as defined in subdivision (2)
19 of subsection 1 of section 568.060;

20 (5) "Sexually violent predator", any person who suffers from a mental
21 abnormality which makes the person more likely than not to engage in predatory
22 acts of sexual violence if not confined in a secure facility and who:

23 (a) Has pled guilty or been found guilty, or been found not guilty by
24 reason of mental disease or defect pursuant to section 552.030 of a sexually
25 violent offense; or

26 (b) Has been committed as a criminal sexual psychopath pursuant to
27 section 632.475 and statutes in effect before August 13, 1980.

632.498. 1. Each person committed pursuant to sections 632.480 to
2 632.513 shall have a current examination of the person's mental condition made
3 once every year by the director of the department of mental health or
4 designee. The yearly report shall be provided to the court that committed the
5 person pursuant to sections 632.480 to 632.513. The court shall conduct an
6 annual review of the status of the committed person. The court shall not conduct
7 an annual review of a person's status if he or she has been conditionally released
8 pursuant to section 632.505.

9 2. Nothing contained in sections 632.480 to 632.513 shall prohibit the
10 person from otherwise petitioning the court for release. The director of the
11 department of mental health shall provide the committed person who has not
12 been conditionally released with an annual written notice of the person's right to
13 petition the court for release over the director's objection. The notice shall
14 contain a waiver of rights. The director shall forward the notice and waiver form
15 to the court with the annual report.

16 3. If the committed person petitions the court for conditional release over
17 the director's objection, the petition shall be served upon the court that committed
18 the person, the **prosecuting attorney of the jurisdiction into which the**
19 **committed person is to be released**, the director of the department of mental
20 health, the head of the facility housing the person, and the attorney general.

21 4. The committed person shall have a right to have an attorney represent
22 the person at the hearing but the person is not entitled to be present at the

23 hearing. If the court at the hearing determines by a preponderance of the
24 evidence that the person no longer suffers from a mental abnormality that makes
25 the person likely to engage in acts of sexual violence if released, then the court
26 shall set a trial on the issue.

27 5. The trial shall be governed by the following provisions:

28 (1) The committed person shall be entitled to be present and entitled to
29 the benefit of all constitutional protections that were afforded the person at the
30 initial commitment proceeding;

31 (2) The attorney general shall represent the state and shall have a right
32 to a jury trial and to have the committed person evaluated by a psychiatrist or
33 psychologist not employed by the department of mental health or the department
34 of corrections. In addition, the person may be examined by a consenting
35 psychiatrist or psychologist of the person's choice at the person's own expense;

36 (3) The burden of proof at the trial shall be upon the state to prove by
37 clear and convincing evidence that the committed person's mental abnormality
38 remains such that the person is not safe to be at large and if released is likely to
39 engage in acts of sexual violence. If such determination is made by a jury, the
40 verdict must be unanimous;

41 (4) If the court or jury finds that the person's mental abnormality remains
42 such that the person is not safe to be at large and if released is likely to engage
43 in acts of sexual violence, the person shall remain in the custody of the
44 department of mental health in a secure facility designated by the director of the
45 department of mental health. If the court or jury finds that the person's mental
46 abnormality has so changed that the person is not likely to commit acts of sexual
47 violence if released, the person shall be conditionally released as provided in
48 section 632.505.

632.505. 1. Upon determination by a court or jury that the person's
2 mental abnormality has so changed that the person is not likely to commit acts
3 of sexual violence if released, the court shall place the person on conditional
4 release pursuant to the terms of this section. The primary purpose of conditional
5 release is to provide outpatient treatment and monitoring to prevent the person's
6 condition from deteriorating to the degree that the person would need to be
7 returned to a secure facility designated by the director of the department of
8 mental health.

9 2. The department of mental health is authorized to enter into an
10 interagency agreement with the department of corrections for the supervision of

11 persons granted a conditional release by the court. In conjunction with the
12 department of corrections, the department of mental health shall develop a
13 conditional release plan which contains appropriate conditions for the person to
14 be released. The plan shall address the person's need for supervision, counseling,
15 medication, community support services, residential services, vocational services,
16 and alcohol and drug treatment. The department of mental health shall submit
17 the proposed plan for conditional release to the court.

18 3. The court shall review the plan and determine the conditions that it
19 deems necessary to meet the person's need for treatment and supervision and to
20 protect the safety of the public. The court shall order that the person shall be
21 subject to the following conditions and other conditions as deemed necessary:

22 (1) Maintain a residence approved by the department of mental health
23 and not change residence unless approved by the department of mental health;

24 (2) Maintain employment unless engaged in other structured activity
25 approved by the department of mental health;

26 (3) Obey all federal and state laws;

27 (4) Not possess a firearm or dangerous weapon;

28 (5) Not be employed or voluntarily participate in an activity that involves
29 contact with children without approval of the department of mental health;

30 (6) Not consume alcohol or use a controlled substance except as prescribed
31 by a treating physician and to submit, upon request, to any procedure designed
32 to test for alcohol or controlled substance use;

33 (7) Not associate with any person who has been convicted of a felony
34 unless approved by the department of mental health;

35 (8) Not leave the state without permission of the department of mental
36 health;

37 (9) Not have contact with specific persons, including but not limited to,
38 the victim or victim's family, as directed by the department of mental health;

39 (10) Not have any contact with any child without specific approval by the
40 department of mental health;

41 (11) Not possess material that is pornographic, sexually oriented, or
42 sexually stimulating;

43 (12) Not enter a business providing sexually stimulating or sexually
44 oriented entertainment;

45 (13) Submit to a polygraph, plethysmograph, or other electronic or
46 behavioral monitoring or assessment;

47 (14) Submit to electronic monitoring which may be based on a global
48 positioning system or other technology which identifies and records a person's
49 location at all times;

50 (15) Attend and fully participate in assessment and treatment as directed
51 by the department of mental health;

52 (16) Take all psychiatric medications as prescribed by a treating
53 physician;

54 (17) Authorize the department of mental health to access and obtain
55 copies of confidential records pertaining to evaluation, counseling, treatment, and
56 other such records and provide the consent necessary for the release of any such
57 records;

58 (18) Pay fees to the department of mental health and the department of
59 corrections to cover the costs of services and monitoring;

60 (19) Report to or appear in person as directed by the department of
61 mental health and the department of corrections, and to follow all directives of
62 such departments;

63 (20) Comply with any registration requirements under sections 589.400
64 to 589.425; and

65 (21) Comply with any other conditions that the court determines to be in
66 the best interest of the person and society.

67 4. The court shall provide a copy of the order containing the conditions of
68 release to the person, the attorney general, the department of mental health, the
69 head of the facility housing the person, and the department of corrections.

70 5. A person who is conditionally released and supervised by a probation
71 and parole officer employed by the department of corrections remains under the
72 control, care, and treatment of the department of mental health.

73 6. The court may modify conditions of release upon its own motion or upon
74 the petition of the department of mental health, the department of corrections,
75 or the person on conditional release.

76 7. The following provisions shall apply to violations of conditional release:

77 (1) If any probation and parole officer has reasonable cause to believe that
78 a person on conditional release has violated a condition of release or that the
79 person is no longer a proper subject for conditional release, the officer may issue
80 a warrant for the person's arrest. The warrant shall contain a brief recitation of
81 the facts supporting the officer's belief. The warrant shall direct any peace officer
82 to take the person into custody immediately so that the person can be returned

83 to a secure facility;

84 (2) If the director of the department of mental health or the director's
85 designee has reasonable cause to believe that a person on conditional release has
86 violated a condition of release or that the person is no longer a proper subject for
87 conditional release, the director or the director's designee may request that a
88 peace officer take the person into custody immediately, or request that a
89 probation and parole officer or the court which ordered the release issue a
90 warrant for the person's arrest so that the person can be returned to a secure
91 facility;

92 (3) At any time during the period of a conditional release, the court which
93 ordered the release may issue a notice to the released person to appear to answer
94 a charge of a violation of the terms of the release and the court may issue a
95 warrant of arrest for the violation. Such notice shall be personally served upon
96 the released person. The warrant shall authorize the return of the released
97 person to the custody of the court or to the custody of the director of mental
98 health or the director's designee;

99 (4) No peace officer responsible for apprehending and returning the person
100 to the facility upon the request of the director of the department of mental health
101 or the director's designee or a probation and parole officer shall be civilly liable
102 for apprehending or transporting such person to the facility so long as such duties
103 were performed in good faith and without negligence;

104 (5) The department of mental health shall promptly notify the court that
105 the person has been apprehended and returned to a secure facility;

106 (6) Within seven days of the person's return to a secure facility, the
107 department of mental health must either request that the attorney general file
108 a petition to revoke the person's conditional release or continue the person on
109 conditional release;

110 (7) If a petition to revoke conditional release is filed, the person shall
111 remain in custody until a hearing is held on the petition. The hearing shall be
112 given priority on the court's docket. If upon hearing the evidence, the court finds
113 by preponderance of the evidence that the person has violated a condition of
114 release and that the violation of the condition was sufficient to render the person
115 no longer suitable for conditional release, the court shall revoke the conditional
116 release and order the person returned to a secure facility designated by the
117 director of the department of mental health. If the court determines that
118 revocation is not required, the court may modify or increase the conditions of

119 release or order the person's release on the existing conditions of release;

120 (8) A person whose conditional release has been revoked may petition the
121 court for subsequent release pursuant to sections 632.498, 632.501, and 632.504
122 no sooner than six months after the person's return to a secure facility.

123 8. The department of mental health may enter into agreements with the
124 department of corrections and other departments and may enter into contracts
125 with private entities for the purpose of supervising a person on conditional
126 release.

127 9. The department of mental health and the department of corrections
128 may require a person on conditional release to pay a reasonable fee to cover the
129 costs of providing services and monitoring while the person is released. Each
130 department may adopt rules with respect to establishing, waiving, collecting, and
131 using fees. Any rule or portion of a rule, as that term is defined in section
132 536.010, that is created under the authority delegated in this section shall
133 become effective only if it complies with and is subject to all of the provisions of
134 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
135 nonseverable and if any of the powers vested with the general assembly pursuant
136 to chapter 536 to review, to delay the effective date, or to disapprove and annul
137 a rule are subsequently held unconstitutional, then the grant of rulemaking
138 authority and any rule proposed or adopted after August 28, 2006, shall be
139 invalid and void.

140 10. In the event a person on conditional release escapes from custody, the
141 department of mental health shall notify the court, the department of corrections,
142 the attorney general, the chief law enforcement officer of the county or city not
143 within a county from where the person escaped or absconded, and any other
144 persons necessary to protect the safety of the public or to assist in the
145 apprehension of the person. The attorney general shall notify victims and
146 witnesses. Upon receiving such notice, the attorney general shall file escape from
147 commitment charges under section 575.195.

148 **11. When a person who has been granted conditional release**
149 **under this section is being electronically monitored and remains in the**
150 **county, city, town, or village where the facility is located that released**
151 **the person, the department of corrections shall provide, upon request,**
152 **the chief of the local law enforcement agency of such county, city, town,**
153 **or village with access to the information gathered by the global**
154 **positioning system or other technology used to monitor the**

155 **person. This access shall include, but not be limited to, any user name**
156 **or password needed to view any real-time or recorded information**
157 **about the person, and any alert or message generated by the**
158 **technology. The access shall continue while the person is being**
159 **electronically monitored and is living in the county, city, town, or**
160 **village where the facility that released the offender is located. The**
161 **information obtained by the chief of the local law enforcement agency**
162 **shall be closed and shall not be disclosed to any person outside the law**
163 **enforcement agency except upon an order of the court supervising the**
164 **conditional release.**

Section B. Because immediate action is necessary to ensure the quality
2 of representation of indigent criminal defendants, the enactment of section
3 600.062 of this act is deemed necessary for the immediate preservation of the
4 public health, welfare, peace, and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, the enactment of section
6 600.062 of this act shall be in full force and effect upon its passage and approval.

✓

Bill

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